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## **AUSTRALIAN EVANGELICAL ALLIANCE**

and

## **MISSIONS INTERLINK**

**Joint Submission to “Australia’s  
Future Tax System” Review Panel**

**April 2009**

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## Executive Summary

Like many organisations in the Third Sector, the Australian Evangelical Alliance Inc [hereafter referred to as EA] and Missions Interlink have made previous submissions to inquiries and consultations to assist the reform of this sector. In order not to be repetitive, this submission seeks to build on our earlier submission to the *Senate Standing Committee on Economics Inquiry into the Disclosure Regimes for Charities and Not-For-Profit Organisations*.

Both EA and Missions Interlink believe that there is a real need for the Governments in Australia to positively recognise the valuable contribution that has been made by charities and other organisations in providing support and services to those in need within our society. In fact we believe at this time in Australia that all levels of Government are dependent on the Third Sector, and especially charities, for their delivery of essential community services. So it is only right for there to be due recognition of the important role this sector plays in our society.

We also recognise that this contribution has come at a significant cost to Government through the benefits and concessions made available to these organisations. We applaud all Governments for their willingness to work with organisations within the Third Sector; and for their provision of important concessions to support charities in their valuable role within our society.

We agree though that there has been a need for a complete review of Australia's tax system for some time. As a nation we have continued to move forward since Federation in 1901, but overall our tax system has lagged behind the changes happening within our society. The current tax system has developed over many years, in a piecemeal way responding to the different needs of the Governments of the time and to some degree changing social and economic conditions.

The uncertainty of the global financial crisis and effect of the subsequent economic downturn on the everyday life of Australians has added a further dimension to getting this right. The system developed through this review must be capable of ensuring adequate resources and funding is available to meet the needs of our society at any given time.

We recognise that this "review will look at the current tax system and make recommendations to position Australia to deal with the demographic, social, economic and environmental challenges of the 21<sup>st</sup> century"<sup>1</sup>. In the midst of this review, we trust that the Government will continue to recognise the value of the Third Sector and ensure its future place in helping to provide essential support and services within our community.

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<sup>1</sup> Treasury Website, [taxreview.treasury.gov.au](http://taxreview.treasury.gov.au)

We also recognise that all levels of Government need tax revenue to enable them to provide essential services such as public infrastructure, health and education. Without taxation any Government is unable to fulfil its responsibilities in providing essential services, ensuring that all people have their basic needs met. This would include their economic, social and spiritual needs being met.

Governments by themselves are unable to meet the continued growing needs within our society, especially in the area of social services, which has for most part been the area of expertise of the Third Sector. Our priority is to ensure that there is the right balance within the system, so that Government, Business and the Third Sector can be working together to improve the life and well-being of all Australians, and through this then have a flow-on into helping our world.

As we look to the future, we believe that areas like revenue, efficiency, simplicity, flexibility, accountability, transparency are all vital components of what needs to be considered in the context of our future tax system.

Tax concessions for the Third Sector are another key area for this review panel to consider seriously. It is in our opinion illogical to impose taxes on charities and not-for-profits when the Government is dependent on this sector for services and support to the community that the Government would otherwise be required to provide.

It must also be recognised that the removal of tax concession status from charities and not-for-profit organisations would seriously impact on their ability to provide their current level of service. If services were to reduce, many Australians would be worse off and more dependent on Governments for assistance. This would add further to the burden on the tax system, through increased costs for the Government to take over providing those services.

Along with this is the need for a simplified regulatory framework for the Third Sector, which the recent Senate Standing Committee on Economic Inquiry dealt with. We would encourage the panel to give serious consideration to the recommendations found within that report.

## Supporting Organisations

### ***Australian Evangelical Alliance Inc***

The Australian Evangelical Alliance Inc ABN 54 056 007 820 is a fellowship of well over 600 Australian churches, organisations and individuals. It is a catalyst for Christian unity, cooperation and mission across the Christian community within Australia. Its mission is to serve the Christian community by:

- Linking people and networks in strategic partnerships;
- Stimulating and communicating Biblical thinking in church and society about contemporary issues;
- Providing services to optimise the use of resources;
- Encouraging and supporting innovative ministries; and
- Giving voice to Christian concerns.

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### ***Missions Interlink***

Missions Interlink is the Missions Commission of the Australian Evangelical Alliance. It constitutes a network of 130+ mission agencies which exist to link, support and train those who are interested in cross-cultural mission. This means linking mission agencies, training providers (colleges), service agencies, individuals and churches together in order to help advance the work of global mission. Missions Interlink is not a mission agency and it doesn't send anyone overseas. It is the peak body representing cross-cultural mission organisations within Australia.

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## Our Society

### ***A Pluralistic Society?***

Dr Geoff Tunnicliffe, the Director of World Evangelical Alliance, visited Australia in June 2008. During his visit, he made a helpful comment: that society should not be defined as secular, but rather as pluralistic. Pluralism means that all people have a place at the table. It is not a secular table; it is a pluralistic table, and therefore no one party can claim to have absolute control of the table. <sup>2</sup>

Dr Tunnicliffe also stated that as we live in a world of cultural differences, each part of our pluralistic society needed to be involved in building relationships across those cultural differences.

He summarised it in a simple six step process:

1. You can't serve and help someone you don't understand.
2. You can't understand others until you have learned from them.
3. You can't learn important information from someone until there is trust in the relationship.
4. To build trust, others must know that you accept and value them as people.
5. Before you can communicate acceptance, people must experience your openness – your ability to welcome them into your presence.
6. Openness is being willing to step out of your comfort zone to initiate and sustain relationships in a world of cultural differences.

In 2005 British Home Office Minister Fiona Mactaggart said that “mutual understanding is important for building strong, active communities in which citizens have the power to shape their future. By furthering our knowledge of the many faiths in our diverse society, this...contributes to that goal”. <sup>3</sup>

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<sup>2</sup> Tom Slater, “Church and Society: Challenging the secularist claim” Australian Evangelical Alliance Magazine “Working Together” Issue 3 2008, page 1

<sup>3</sup> Alan Nichols, “Issues Facing Australian Society and Churches” Australian Evangelical Alliance Magazine “Working Together” Issue 1 2005, page 4

We believe that it is essential for all sectors within our society to recognise the value of each other and their potential input into the future here in Australia. That can include both the multicultural component of our society, as well as Governments, Business and Third Sector all recognising the value of each other in their input into our society.

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## The Future Tax System

### Overview

The Henry review provides a once in a lifetime opportunity to consider the fairness or not of the existing system, as well as to look at ways to develop an integrated system for Australia for today and tomorrow.

EA and Missions Interlink hold a vision for a tax system that affords all Australians the opportunity to attain their full economic and social potential, and to achieve it in a way that promotes the optimum well being of all our citizens.

We agree in principle with the statement by St Vincent de Paul Society in their submission –

Australia's future taxation system should be:

- **Equitable** – deliver equal treatment of similarly situated taxpayers and tax unequally situated taxpayers to their ability to pay.
- **Convenient** – a tax that can be readily and easily assessed, collected, and administered.
- **Certain** – the consistency and stability in the prediction of taxpayers' bills and the amount of revenue collected over time.
- **Economical** – compliance and administration of a tax should be minimal in terms of cost.<sup>4</sup>

We endorse the view stated by Senator Ursula Stephens in an interview with Pro Bono Australia in late 2007 and believe that this should be somehow included into the outcomes desired from the new tax system:

“We have adopted social inclusion as an objective and organising principle of the nation's social and economic policy. This will involve investing in Australians and their communities to ensure that economic prosperity benefits all Australians and does not leave behind the disadvantaged.

“We recognise that for government to address entrenched social disadvantage, it must be able to work effectively in partnership with the third sector to deliver targeted interventions at the community level.

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<sup>4</sup> St Vincent de Paul Society, Submission “Australia's Future Tax System” October 2008 page 6-7

“...Over the past year I have spoken to many people within the sector and it is clear to me that our Government needs to work in partnership with the sector to increase its capacity to contribute to our shared aims of a fairer society.”<sup>5</sup>

Writing in *Eureka Street* just after the November 2007 election, Senator Ursula Stephens explained this further: ‘Social inclusion is about recognising that economic prosperity in and of itself is not enough: it is central to the work of government to make sure that this prosperity leaves no-one behind. We need to think about disadvantage in terms of its effects — how it prevents people from participating and living full lives — so as to understand how best to address it.’<sup>6</sup>

### ***The Third Sector***

As we look at the issue of the future tax system as it relates to the Third Sector, we believe that the Future Tax System should give clear recognition to the three key sectors that exist within our community – the government sector, the business [or for-profit] sector and the third sector [or not-for-profit sector] and the value they all make to our community.

In due recognition of the role of the Third Sector, the new tax system should continue to provide tax concessions to this sector. This will be further explored later in our submission. But suffice to say at this point that any additional tax burden on these organisations would simply lessen the impact of these services and increase the burden on the Government

As we look to the future role of the Third Sector within our community, we believe that some of the issues needing to be included are:

- Guaranteed consultation on all policy issues that affect the Third Sector;
- Establishing funding principles to ensure the Third Sector is sustainable and achieves results;
- Building capacity within the sector so it can provide sustainable, quality services;
- Ensuring uniformity of dealings and principles across government departments;
- Recognising the diversity of the sector’s structure and function; and
- Cultivating and supporting the important advocacy role played by the sector.

We will further explore these six areas in more detail later in the submission.

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<sup>5</sup> See Pro Bono Australia website [www.probonoaustralia.com.au](http://www.probonoaustralia.com.au) and the article called “A Rudd Labor Government and the Third Sector” at [http://www.probonoaustralia.com.au/news/print.html?filename\\_num=183309](http://www.probonoaustralia.com.au/news/print.html?filename_num=183309)

<sup>6</sup> See Anglicare website [www.anglicare.asn.au](http://www.anglicare.asn.au) and the paper called “State of the Family 2008” at <http://www.anglicare.asn.au/documents/StateoftheFamily2008.pdf> page 23

We do believe however that most of these can be adequately addressed should the Review Panel fully endorse the recommendations of the *Senate Standing Committee on Economics Inquiry into the Disclosure Regimes for Charities and Not-For-Profit Organisations*.

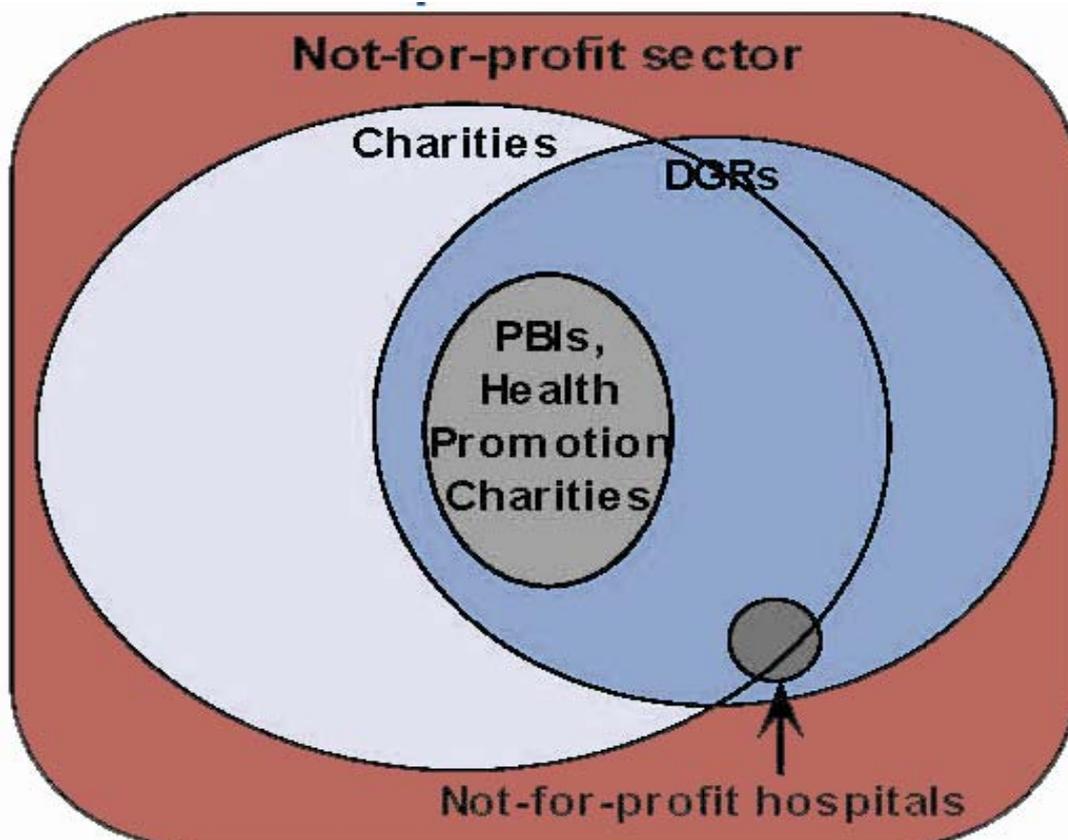
Should the Review Panel not agree with those recommendations, then the Panel needs to explore ways in which the above points may be addressed. The important concern from our perspective is that these issues should be adequately addressed so as the future for the Third Sector includes key issues like accountability, transparency, flexibility, support, consultation, funding options for sustainability, and like factors.

## The Third Sector

### Overview

The Third Sector [also known as the Not-For-Profit Sector] at a broad level can be defined as organisations that are 'mission driven' rather than 'profit driven'. "These organisations are formed by people to provide services for themselves or for others, to advance a cause, to share an enthusiasm, to preserve a tradition, to worship a god or gods" <sup>7</sup>

These organisations operate in many areas – including health, education, arts and culture, sport, religion, social welfare and rights, the environment – and the type of organisations range from clubs and social or community associations through to philanthropic trust, foundations, charities and Public Benevolent Institutions [PBIs]. Within that mix is also a number of organisation who have access to Deductible Gift Recipient [DGR] status. The following diagram attempts to portray somewhat how the sector looks:



<sup>7</sup> M Lyons 2003, "The Legal and Regulatory Environment of the Third Sector" Asian Journal of Public Administration vol 25, no 1 pp 87-106

Organisations within the Third Sector contribute to the community in a number of practical ways, including by:

- Providing valuable community facilities - such as sporting facilities, community centres and places of worship – and many of the programs that run these facilities;
- Providing a wide range of community services – such as aged care, support for people with disabilities and other groups in need within the community;
- Providing a vehicle for members of the community to express their views on important issues, such as advocacy and political lobby groups;
- Providing a means for greater social cohesion and expression by providing a central meeting place for individuals with common interests; and
- Providing a vehicle for individuals to contribute to the broader community.<sup>8</sup>

In summary the Third Sector is large, diverse, economically and socially highly significant, characterised by small to medium sized organisations, with many organisations heavily reliant on volunteer labour and other community, business and Government support

### ***The Role of the Sector***

The Third Sector is the engine of ideas in our society. It provides the vision, the diversity and alternative possibilities of the sort of society which we might become.

Social scientists often divide society into three components – the Government, the Business sector and the community. If we think about the role each of the three parts play in articulating visions of the future, we can see that Governments are captives of the electoral cycle and find it hard to look past the next election. The business sector (despite corporate social responsibility) still looks to the bottom line of their economic performance. That leaves the Third Sector to provide the vision and be the ‘engine of ideas’.

The Third Sector has the responsibility to articulate the arguments for a fairer, equitable and just society. The sector has vital information from service delivery and work at the front line of social disadvantage, as well as significant research capabilities. This invaluable research material,

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<sup>8</sup> Spindler, Karen, Improving Not-For-Profit Law And Regulation, December 2005, p 11

including real life stories, can inform and enrich advocacy and the development of alternative possibilities.

The Third Sector is also a dynamic, ever-changing creature. One of its strengths is its ability to adapt quickly and create new organisations to meet needs. For example, the various asylum seeker and refugee groups which sprang up following the Tampa affair reflected urgent need for both support and advocacy perceived by the individuals who took action. The Third Sector also encompasses an enormous range of views on society itself, on what changes are important, and how to go about advocating. Diversity of views is a strength in a democracy, if there are mechanisms for debate. The vitality and richness of the Third Sector is a reflection of the vitality and richness of ideas and people in our society. From a democratic point of view, it is good to hear these different voices. Diversity of ideas should be welcomed, not stifled.

### ***The Future Tax System and the Third Sector***

As was stated earlier, when we look to the future role of the Third Sector within the framework of the Future Tax System, there are a number of key issues that need to be included to ensure the sector can provide sustainable quality services into the future.

#### **Guaranteed consultation on all policy issues that affect the Third Sector**

It has been encouraging to see the recent changes occurring within the Parliamentary system where major parties are beginning to recognise more and more the value of the Third Sector within our society. The Parliamentary Secretary for Social Inclusion and the Voluntary Sector, Senator Ursula Stephens, recently stated:

"As part of the Federal Government's Social Inclusion agenda, we are dedicated to a new era of partnership with the not-for-profit sector. The Government will continue to find new ways to support and promote the crucial work of the staff and volunteers within the sector in helping disadvantaged Australians...Without a strong and vibrant not-for-profit sector working as our partners, we will be unable to deliver these social inclusion priorities...We want to ensure the sector can maintain and build on its core business of empowering individuals, changing lives, building communities from within and being a voice for the voiceless." <sup>9</sup>

This is encouraging. Yet we recognise that, just as governments come and go, this policy could change with a change of government. And so we would advocate that the Future Tax System

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<sup>9</sup> See Media Centre site for Education, Employment and Workplace Relations portfolio <http://mediacentre.dewr.gov.au/mediacentre/> and media release by Senator Stephens of 23 June 2008 - <http://mediacentre.dewr.gov.au/mediacentre/AllReleases/2008/June/FringeBenefitsTaxDecisionBigWinforNotForProfitSector.htm>

should include a clear statement to guaranteed consultation on all policy issues that affect the Third Sector **PRIOR TO** any decisions being made.

### **Establish funding principles to ensure the sector is sustainable and achieves results**

In looking at the existing ways by which organisations within the sector may be held to account it is important to consider the role of funders and particularly the role of governments, as one of the larger funders of the sector. Increasingly funding is linked to achieving particular outputs or outcomes and may be subject to assurances about an organisation's efficiency and effectiveness, for example whether it has appropriate employment policies or an approved quality assurance system in place.

However, this should not add to the burden of regulation by increasing the complexity of the sector's accountability, as organisations juggle what may be quite different monitoring and reporting requirements and timescales: funders, like regulators, need to be aware of the implications of their individual requirements.

The Honourable Mr Lindsay Tanner, Minister for Finance and Deregulation in the Rudd Government, recently talked on his Business Day blog site of an example of a charity that wanted to hold a national fundraising raffle; something that you may think would be relatively straightforward to organise. In preparation for its raffle, the charity would discover that all six states and the ACT currently regulate fundraising and that regulations differ between each jurisdiction. The charity would need to apply for separate licences and meet separate requirements in each jurisdiction.<sup>10</sup> The monitoring and reporting requirements in each state are so different from each other and add to the overall level of frustration within the sector.

In their delivery of services through the Third Sector, governments are generally not concerned with whether or not an entity is a 'charity'. However, the charitable status of an entity may have implications for the administration of government programs. If the charity were to seek grants from different Government departments [Federal State and local governments and differing departments within each level of Government] then again there is the differing level of monitoring and reporting required to satisfy each of these different groups. It becomes an administrative nightmare and the result is that extra red tape on NFP organisations means less time and money can be spent delivering front line services. Ultimately, it is all of us in the communities where the services are unnecessarily diluted, who bear these costs.

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<sup>10</sup> See <http://blogs.theage.com.au/business/lindsaytanner/2009/03/24/charitywithout.html> accessed 26 March 2009

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## **Building capacity within the sector so it can provide sustainable, quality services**

We believe that it is crucial for the Future Tax System to incorporate a framework which would enable the Third Sector to plan for the future so as to see the sector able to continue to provide sustainable quality services. The current economic crisis further shows the importance of this. Tougher economic times mean more and more strain on social service organisations. Already the demand for social services is rising and will rise substantially in the short-term. In many areas - examples include residential aged care, housing, homelessness and family relationship services - demand already outstrips the capacity of agencies to offer assistance. The services most immediately affected by deteriorating economic conditions are in employment, housing, financial and general counselling and emergency relief.

Yet with this crisis there has been a slow grinding down of the capacity of the Third Sector and successive governments, through competition policy, competitive tendering regimes and a strict adherence to purchaser-provider models of service, have diminished organisations in the sector. So if we want to have the Third Sector that we are going to need in the future, then we have to acknowledge that the sector is about so much more than services – the organisations working in this space are the glue that binds us together as a nation. They give voice to the voiceless, they advocate for change where change is needed, and they keep those in government honest and alert to what is happening in our communities.

In an article written in December 2007 for ProBono Australia, the Parliamentary Secretary for Social Inclusion and the Voluntary Sector, Senator Ursula Stephens, stated that:

“While community sector organisations vary widely in their activities and structures, many have lost core funding and now rely on purchase provider contracts. This has reduced the capacity for the sector to invest in equipment, facilities and assets that enable them to both deliver their services and remain viable and competitive as employers.” She goes on to recognise the direct and indirect contributions of third-sector organisations to our economy and is looking for maximising the sector's contribution to our society, including social inclusion, environmental and social health, employment and economic growth.<sup>11</sup>

Again this is very encouraging. Yet we also recognise that, just as governments come and go, this policy could change with a change of government. And so we would state that it is imperative that

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<sup>11</sup> See ProBono Australia website – [www.probonoaustralia.com.au](http://www.probonoaustralia.com.au) and the article called “A Rudd Labour Government And the Third Sector” written by Senator Stephens at [http://www.probonoaustralia.com.au/news/detail.chtml?filename\\_num=183309](http://www.probonoaustralia.com.au/news/detail.chtml?filename_num=183309)

the Future Tax System recognises the value of the Third Sector and looks to build future capacity so that it has a sustainable future, able to act at all times to help those in need.

As the growing demands on the social services sector at the moment demonstrates, the sector has increasingly been called on in recent years to meet the needs of the community in this area - a trend that has in many instances pushed these services beyond capacity. This cannot continue and the Future Tax System must address how to help the Third Sector build into their capacity.

From a policy perspective, this model of service delivery is in many cases the most effective one. Service agencies tend to be more aware of the characteristics of local communities, better positioned to identify and address specific needs, and better placed to respond quickly to emerging issues. In light of the growing and changing demands, a continued emphasis on non-government service delivery will require governments at all levels to work collaboratively with the Third Sector to ensure that agencies have sufficient capacity and appropriate resources to meet the challenges that inevitably lie ahead.<sup>12</sup>

### **Ensuring uniformity of dealings and principles across government departments**

Third Sector organisations are concerned that they are being asked for the same information from different regulators or funders, but are required to present it in different formats; or they must comply with a particular quality assurance system favoured by the regulator or funder, rather than one that meets the needs of the organisation. Such multiplicity of effort can be a considerable source of frustration for the organisations within the sector. This could be mitigated by a greater willingness to share or 'passport' information between regulators and with more negotiation with the organisations themselves. We recognise that there may need to be some consideration given to privacy issues with this. But we believe it is possible to work through those possible areas of conflict to ensure a more simplified uniform system across government departments.

The perception by many involved in the Third Sector is that there is also a bureaucratic culture of disrespect in many government departments. So it is important for this to be addressed. Then it is possible for both parties working together to bring some uniformity in their dealings across government departments.

Overall the sector supports accountability and transparency. However, many organisations are required to provide individual annual and/or half-yearly or even quarterly reports to multiple Government, Philanthropic and Corporate bodies. Standardising reporting requirements and

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<sup>12</sup> Access Economics, Paper: The impact of the global financial crisis on social services in Australia, November 2008 page 27

formats for all tiers of government and departments of government would reduce this burden and time-wasting duplication.

A whole of government approach to the format and processing of grant submissions would also help. Adequate time-frames for the sector to research and develop submissions and a more timely response frame would assist the sector to function more efficiently. Waiting 9-12 months or longer for decisions on funding does not support continuity or program and service planning and threatens staff continuity.

### **Recognising the diversity of the sector's structure and function**

Former Senator Andrew Murray has acknowledged that the NFP sector “includes small voluntary organisations which do not receive government subsidies and which are run exclusively on donations from a small group of people and service the needs of other small groups”.<sup>13</sup>

He states that there is therefore not the same need for small NFPs to “have the advanced integrity, record-keeping, accounting and reporting measures that larger organisations require”.<sup>14</sup> In other words there is no “one size fits all” solution to the needs of the sector

He goes on to also say that all organisations within the Third Sector “need a simple, flexible framework, uncluttered by the protections afforded to equity investors in companies legislation, with a regulator that is focused on facilitation”.<sup>15</sup>

Traditional structures are too complex, too inflexible and too focussed on equity investment to provide the necessary framework for NFP organisations. Current legislation seems to impose an accountability, reporting and company model tailored more for the for-profit sector, which is not always suitable for NFPs. Examples of this would be in the areas of:

- [1] Compliance costs.
- [2] Complexity within the Acts.
- [3] Inappropriateness of some rules.

“The cost element is particularly important, given that many not-for-profit organisations ...are small and frequently run by volunteers with limited resources.”<sup>16</sup> ”

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<sup>13</sup> Murray, Andrew, One Regulator One System One Law, July 2006, p10

<sup>14</sup> Murray, Andrew, A Proposal For Simplifying The Legal Form And Regulation Of Small For-Profit And Not-For-Profit Entities, April 2008, p2

<sup>15</sup> Murray, Andrew, A Proposal For Simplifying The Legal Form And Regulation Of Small For-Profit And Not-For-Profit Entities, April 2008, p2

<sup>16</sup> Spindler, Karen, Improving Not-For-Profit Law And Regulation, December 2005, p 18

In summary there must be “a regulatory environment that promotes NFP enterprise, integrity and funder confidence”.<sup>17</sup>

### **Cultivating and supporting the important advocacy role played by the sector**

In recent years there have been major constraints on what can be considered “political” activities of charities and other nonprofits. There have been a number of reasons for this:

- Interpretations of charitable law by government regulators, especially the Australian Tax Office;
- Self-imposed constraints by not-for-profit and philanthropic organisations fearful of overstepping their legal boundaries.

It is imperative that the Future Tax System provide opportunity for Third Sector organisations to actively be involved in public debate and advocacy on behalf of their stakeholders.

## ***Summary***

The role of the Third Sector cannot be dismissed. It is a vital link in the web that makes us Australia. It is the link from those hurting within our communities back to the Government and business sector. Its value is immeasurable. Building government understanding of the contributions the Third Sector makes to the economic and social growth was seen as essential.

Arguing that the social value of the economic and social activities of the NFP sector is largely unrecognized by government, Brendan Rynne of KPMG stressed the importance of demonstrating to government that investments in the NFP sector provide far-reaching and sustainable social benefits.

Rather than focusing on their tax-status, Peter de Courcy Hero of Melbourne Community Foundation explained, government should be looking at strengths and assets NFPs bring to communities. NFP leaders, he argues, possess tremendous potential that is “critical for building civic society.”<sup>18</sup>

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<sup>17</sup> National Roundtable Of Non-Profit Associations, Non-Profit Regulation Reform Program, 2004, p4

<sup>18</sup> ProBono Australia, Article “The Impact of the Financial Crisis on Philanthropy - a Cross Sector Analysis” - see a summary posted 16 March 2009 at [http://www.probonoaustralia.com.au/news/detail.html?filename\\_num=268424](http://www.probonoaustralia.com.au/news/detail.html?filename_num=268424) accessed 25 March 2009

Over the past 12-18 months, there has been a media-led questioning of the value of the Third Sector to our society and questioning if they should continue to receive the Tax Concessions to which they currently are entitled to under the tax system as it stands.

Income tax “concessions” for charity have been in Australia’s tax laws from their inception. These concessions can be traced back, like many other things, to the United Kingdom. A key thrust of this submission is that income tax “concessions” for charity are a proper, necessary and entirely logical part of any income tax system and are only to be understood as “concessions” in the strict sense that they are necessary allowances to integrate an income tax into the circumstances of a pre-existing civil society where charities already exist.

The idea that tax concessions for charities are “subsidies” or “tax expenditures” is one which has deplorably infected much writing on the subject. It has no real basis other than assertion. Contrary to what is sometimes reported, tax exemptions or deductibility for charities do not involve unjustified tax concessions or “tax expenditures” or departures from competitive neutrality. It is actually necessary to give exemptions or deductibility to charities to ensure compatibility towards non-commercial, non-government altruism.

As we look to the future, it should be noted the impact of the present of the economic crisis is and will have on the Third Sector. Hugh Hodges, the CEO of ANZ Trustees told a recent forum in Melbourne that Not for Profits should expect and budget for as much as a 30% drop in revenue in the next year and to expect another 10% drop in the second year as part of the rolling impact of the financial crisis. He predicted that it would take another two or three years for the Not for Profit sector to fully recover after hitting the bottom of the economic downturn - whenever that might be - as it would take some time before donors and companies felt themselves to be back in a position where they could give again. <sup>19</sup>

Not-for-profit organisations seek to serve the community and/or their members. In turn, the community and members support not-for-profit organisations in their work. The regulatory environment should **support** that two-way relationship. Currently, the complexities, inconsistencies and unsuitability of some regulations mean that it represents more of a barrier between the Third Sector and the community than a support to that relationship.

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<sup>19</sup> ProBono Australia, Article “Financial Crisis - A 5 Year battle for NFPs” - see a summary posted 16 March 2009 at [http://www.probonoaustralia.com.au/news/detail.html?filename\\_num=268401](http://www.probonoaustralia.com.au/news/detail.html?filename_num=268401) accessed 25 March 2009

“The administrative burden placed by funders on community nonprofit organizations is so heavy and so unrelenting, and places so many constraints on their ability to operate that it is a wonder they can deliver any services effectively.”<sup>20</sup>

Current regulation imposes a significant compliance burden on not-for-profit organisations and parts of it are not suited to the organisations’ purposes. This means that the sector’s regulatory goals are not met — the sector does not get the structure, governance and support it needs from governing regulation; nor does it have an effective way of being accountable to those who support it. The result is wasted resources and an under-delivery of not-for-profit services or under achievement of their purposes.

Nor are the community’s or the government’s goals for regulation well satisfied by the current framework. Complex, inconsistent and poorly targeted regulation reduces access to high quality relevant information about the sector, limiting transparency and accountability. Administrative costs of the current regulation are high, diverting public resources from higher priority ends. Unnecessary constraints on not-for-profit activities also needlessly limit the benefits to the community of these activities.<sup>21</sup>

An effective role for the Government would be to critically review all existing laws involved in corporate community programs to ensure simplification of the processes and governance requirements – making it easier to make a difference.<sup>22</sup>

So based on this background, the remainder of the submission will look more closely at the tax concessions and whether they should continue as they are or should be redefined for the 21<sup>st</sup> Century.

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<sup>20</sup> Eakin, Lynn. *We Can’t Afford to do Business This Way: A Study of the Administrative Burden Resulting from Funder Accountability and Compliance Practices*. Toronto: Wellesley Institute, 2007

<sup>21</sup> Spindler, Karen, *Improving Not-For-Profit Law And Regulation*, December 2005, p 47

<sup>22</sup> Philanthropy Australia, *Inquiry into Corporate Responsibility and Triple-Bottom-Line reporting for incorporated entities in Australia*, 23 February 2006, p2

## Tax Concession Charity (TCC)

### What Is A TCC?

Organisations that are charities need to be endorsed by the Tax Office to access charity concessions under the income tax, fringe benefits tax (FBT), and goods and services tax (GST) laws. The following table outlines the tax concessions available to organisations with TCC status.<sup>23</sup>

Table1: Summary of tax concessions and types of not-for-profit organisations

Tax concessions	Types of not-for-profit organisations				
	Charities			Income tax exempt funds	Other not-for-profit organisations
	Public benevolent institutions & Health promotion charities	Charitable institutions	Charitable funds		
Income tax exemption	✓ (1)	✓ (1)	✓ (1)	✓ (1)	✓ (2)(8)
FBT exemption (subject to capping)	✓ (1)				✓ (3)(8)
FBT rebate		✓ (1)			✓ (4)(8)
GST concessions for charities and gift deductible entities	✓ (1)	✓ (1)	✓ (1)	✓ (5)	✓ (5)(8)
GST concessions for non-profit organisations	✓	✓	✓		✓
Deductible gift recipient	✓ (6)	✓ (6)(8)	✓ (6)(8)	✓ (6)	✓ (6)(8)
Refunds of franking credits	✓ (7)	✓ (7)	✓ (7)	✓ (7)	✓ (7)(8)

(Source: ATO, 2008)

#### Notes to the table

1. The entity must be endorsed by the ATO to access this concession.
2. Only certain types of not-for-profit organisations are exempt from income tax. Many not-for-profit organisations are taxable, but may be entitled to special rules for calculating taxable income, lodging income tax returns and special rates of tax.
3. Public and non-profit hospitals and public ambulance services are eligible for this concession.
4. Certain non-government non-profit organisations are eligible for this concession.
5. The entity must be a deductible gift recipient to access this concession.
6. The entity must be endorsed by the ATO as a deductible gift recipient to access this concession. The only organisations that do not need to be endorsed are those listed by name in the tax law, including prescribed private funds.
7. The entity must be an income tax exempt charity, income tax exempt fund, or deductible gift recipient to access this concession.
8. Relates to certain types only.

### Should TCC Status Continue?

We advocate that these exemptions for charities should continue. Further in our submission we look more closely at some of these areas, to represent the way we see these concessions being used more within the sector.

<sup>23</sup> See the Mental Health Council of Australia's submission to the Senate Economic Committee – see their website to view this report [http://www.aph.gov.au/Senate/committee/economics\\_ctte/charities\\_08/submissions/sub114.pdf](http://www.aph.gov.au/Senate/committee/economics_ctte/charities_08/submissions/sub114.pdf)

## ***Who Should Determine TCC Status?***

The ATO is our national Tax Collector. It is a conflict of interest to have the national Tax Collector also the national Regulator for the Third Sector. Former Senator Mr Andrew Murray states that it “is a good administrative principle that the tax collector should not be burdened with non-tax regulation <sup>24</sup>”.

As we stated in our submission to the Senate Enquiry, there needs to be a proper independent regulation for the Third Sector. This is not currently possible given the complexities of the State and Federal laws. The lack of coordination across jurisdictions mean that the statutes offer a fragmented set of possibilities that do not provide clear accessible and consistent information about the sector. The current models were never designed for the NFP sector as a whole. NFPs “need a simple, flexible framework, uncluttered by the protections afforded to equity investors in companies’ legislation, with a regulator that is focused on facilitation”. <sup>25</sup>

Former Senator Andrew Murray states that there is a need for “an independent body for the registration and regulation of charities with an appropriate framework and widely accepted guidelines to assess an NFP’s status. Such a body would make the decisions about whether a charity falls within the definition, whether it should be registered and whether it should be able to avail itself of tax exempt status”. <sup>26</sup>

The Third Sector regulator would be in charge of registering charities for the purposes of the sector, and for adjudicating the tax status of other NFPs. To achieve registration an NFP would be required to show that it fitted within the purpose and activities test applicable to charities or public benevolent institutions and the extended statutory definition. This would have the effect of streamlining the registration process, it would make it flexible to changing conditions, and it would be transparent. <sup>27</sup>

Once assessed as a not-for-profit entity the organisation can then be assessed further to look at its status as it applies under other areas of concession – e.g. FBT, GST, and DGR and so on. But all of this would be done under this regulator, therefore allowing the ATO to be what it has always been – our national Tax Collector. It would remove the perceived conflict of interest which is evident today within some rulings from the ATO.

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<sup>24</sup> Murray, Andrew, One Regulator One System One Law, July 2006, p35

<sup>25</sup> Murray, Andrew, A Proposal For Simplifying The Legal Form And Regulation Of Small For-Profit And Not-For-Profit Entities, April 2008, p2

<sup>26</sup> Murray, Andrew, One Regulator One System One Law, July 2006, p44

<sup>27</sup> Murray, Andrew, One Regulator One System One Law, July 2006, p59

In summary there must be “a regulatory environment that promotes NFP enterprise, integrity and funder confidence”.<sup>28</sup>

Also from this point forward we will examine more closely the following areas, which are associated with TCC status and/or the current tax system in some way:

- [1] Charity
- [2] Public Benevolent Institutions
- [3] Deductible Gift Recipients
- [4] Fringe Benefits Tax
- [5] Capital Gains Tax
- [6] Commercial Activities
- [7] Imputation Credits

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<sup>28</sup> National Roundtable Of Non-Profit Associations, Non-Profit Regulation Reform Program, 2004, p4

## Charity

### ***What Is A Charity?***

Charity is based on the concept of altruism for the public good. But it is not a concept that has been enshrined in a set legal definition.

From a legal perspective, charity was first addressed in the Preamble to the Statue of Elizabeth in 1601. Since then the meaning of charity has been examined through 400 years of common law cases in countries - like Australia, the USA, Canada and New Zealand -- which have inherited laws and legal principles from Great Britain. Critics believe the reliance on case law has caused many of the current problems. As such the law relating to charities is not a unified coherent body of jurisprudence: the concept of a charity has eluded legislative and judicial definition for four centuries; few absolute and comprehensive rules exist to govern and distinguish their activities.<sup>29</sup>

The one unwavering requirement for a charity is that it must have a primary purpose that is charitable. But what exactly is a charitable purpose? The basis of modern law is Pemsel's case which, in 1891 established the four "heads" of charity. They are:

- The relief of poverty.
- The advancement of education.
- The advancement of religion.
- Other purposes seen as beneficial to the community which do not fit into the first three categories.

In recognition of the public benefits provided by charities, they are afforded a range of favourable legal and administrative treatments. The law treats trusts for charitable purposes more favourably than private trusts. Charities receive support from all levels of government, including taxation relief. They are also able to collect donations from the general public under the Charities Collections Act of each State and donations to some charities are tax deductible to the donor. The title of charity can also bring with it a degree of public credibility. Satisfying the requirements of the 'definition' of charity can therefore affect the way an entity operates and the level of public and government support it receives.

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<sup>29</sup>PILCH – Sue Woodward, "Removing complexity, adding coherence: A Proper framework for concessional tax treatment of charities and not-for-profit entities" 17 October 20 17 October 2008 page 4

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## ***Is Advancement Of Religion Charitable?***

The origin of the word charity suggests a broad meaning encompassing all that promotes human wellbeing. It includes, but is not limited to, practical assistance for those in need. Concern and love of the other means love of the other in his or her totality.

From this starting point it is possible to reflect on the different attributes of the human person and his or her needs – charity, love of the other, is a recognition and response to those needs.

It is important then to construct an indicative list of human needs as the basis for discussion and then identify organisations/activities that respond to them. The following represents an outline of some areas of human needs that do need to be met as well as some ideas as to how they can be met:

- **Physical**
  - \* Health services
  - \* Health promotion
  - \* Disability services
  - \* Aged Care and Child care
- **Intellectual**
  - \* Education
  - \* Training
  - \* Science and Research
- **Spiritual**
  - \* Religion
- **Aesthetic**
  - \* Arts and Culture
  - \* Heritage
- **Material**
  - \* Relief of Poverty and Disadvantage
  - \* Ecology <sup>30</sup>

Charity is about how people express their concern for the other in the broadest sense of what it means to advance human wellbeing. On that basis, it should be recognised that the advancement of the spiritual dimension of human living is charitable in itself.

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<sup>30</sup> Father Brian Lucas, MODERNISING CHARITY LAW Religion - Some Comments, April 2009 [this discussion paper was a part of the CPNS conference on "Modernising Charity law" held in Brisbane from Thursday April 16 2009 to Saturday April 18 2009]

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## ***Is Advancing Religion For The Public Benefit?***

In looking for public benefit, one must not limit 'benefit' to that which is only material. Nor does one determine benefit by evaluating the respective truth claims of diverse religions. Nor should one necessarily accept the trend of the case law to exclude benefits limited only to the adherents of a religion. In this respect the inclusion of 'self-help' groups in an extended definition of charity recognises that participation in the group is usually as much about what one does for the other as what one does for oneself.

In general to "advance" a religion means to promote or maintain or practise it and increase belief in the Supreme Being or entity that is the object or focus of the religion. Some ways in which "advancement" can be seen to be "for the public benefit" are:

- Seeking new followers.
- Promoting particular doctrine or tenets of religion.
- Providing places of worship.
- Providing public rituals and ceremonies.
- Providing education and teaching.
- Providing pastoral support.
- Including missionary and outreach work.

We advocate that the promotion of the spiritual dimension of the human person is just as 'charitable' as promoting the material needs of the poor, the physical needs of the sick or the aesthetic needs of the culturally deprived.

## ***Should Charities Continue As Is?***

We believe that the current legal definition of charity has not kept pace with the changes going on in our society. This classification structure is over 100 years old and has become out-dated as a framework for categorizing charitable purposes in contemporary societies. Indeed, as a result of a too narrow an interpretation of charity in the 1960s and 1970s, other categories of organisation (such as Community Service Organisations) had to be created and added to legislation so that they were able to access, for example, income tax exemptions.

This means newly-emerging "public good" organisations, that are charitable in nature, are denied charitable status while "entities, that were once considered charitable but may no longer be so, are

likely to remain on the register”.<sup>31</sup> It is recognised that legislation now requires charities to self-review their operations annually to check that they still qualify. But for many smaller organisations it is harder to comply with all the various requirements which arise through legislation changes, as they struggle to balance compliance with meeting the needs of people in need.

The classification structure for charities in Pemsel’s case does not fit well with the description below of the core purposes that warrant charitable status in contemporary Australian society.

- health, education, social welfare and adequate housing (the purposes of contemporary *human services*);
- people’s spiritual and cultural development, including scientific endeavour;
- civil and human rights; and
- the natural environment.

### ***A Definition for the 21<sup>st</sup> Century***

In 2001, the *REPORT OF THE INQUIRY INTO THE DEFINITION OF CHARITIES AND RELATED ORGANISATIONS* stated that to be a charity an organisation must have a dominant purpose that is charitable, altruistic and for the public benefit.

In addition to this, the Charities Definition Inquiry also recommended modernising the definition of charity to one that offers enhanced clarity and certainty while retaining the quality of flexibility that has proved of great value in the development of the law over the years<sup>32</sup>. So they recommended making charitable purpose to include any of the following:

- (a) The advancement\* of health (which includes the prevention and relief of sickness, disease or of human suffering);
- (b) The advancement\* of education;
- (c) The advancement\* of social or community welfare (which includes the prevention and relief of poverty, distress or disadvantage of individuals or families; the care, support and protection of children and young people; the promotion of community development to enhance social and economic participation; and the care and support of members or former members of the armed forces and the civil defence forces and their families);
- (d) The advancement\* of religion;

<sup>31</sup> ACOSS, VCOSS, Charity Now: Redefining Charity Law for the New Millennium Discussion paper and recommendations for reform 2006 page 7

<sup>32</sup> Charities Definition Inquiry 2001, Report of the Inquiry, Canberra, page 2.

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- (e) The advancement\* of culture (which includes the promotion and fostering of culture; and the care, preservation and protection of the Australian heritage);
  - (f) The advancement\* of the natural environment; and
  - (g) Any other purpose that is beneficial to the community (which includes the promotion and protection of civil and human rights; and the prevention and relief of suffering to animals).

(\* Advancement includes protection, maintenance, support, research or improvement).

We agree that the added recommendation of the report in regards to what constitutes a charity - which states that the principles developed through the common law to determine whether a purpose is for the public benefit - should remain. That is, the purpose –

- Must be aimed at achieving a universal or common good;
- Must have practical utility; and
- Must be for the benefit of the general community or a sufficient section of it.

## Public Benevolent Institutions (PBIs)

### ***What Is A PBI?***

A public benevolent institution (PBI) is a NFP institution organised for the direct relief of poverty, sickness, suffering distress, misfortune, disability or helplessness.

The characteristics of a PBI are:

- It is set up for needs that require benevolent relief;
- It relieves those needs by directly providing services to people in need;
- It is carried on for the public benefit;
- It is not-for-profit;
- It is an institution; and
- Its dominant purpose is providing benevolent relief.<sup>33</sup>

### ***Should PBIs Continue As Is?***

There is no clear relationship between *charitable institution* status and PBI status. The two categories stand alone, even though PBIs are logically a sub-set of charities. This is unnecessarily complex, and confusing to the public because most people instantly recognise the term *charity* but they are not aware of PBIs.

In fact few people working in the charitable sector, and almost none of the general public, understand the distinction between a charity, a PBI and other NFP organisations. Any attempt to modernise the definition of charity is incomplete without considering PBIs and other NFP organisations. Otherwise, the confusion between the categories will remain, and changes to the scope and definition of charity could have unintended effects on the scope and definition of PBIs and other not-for-profit organisations.

The definition of PBI is in greater need of modernisation than that of charity for two reasons. *First*, confusion between PBI and charitable status was exacerbated by an early judgement that defined "benevolence" separately from the charitable purpose of the relief of poverty (which in charity law includes illness and disability), as the "*relief of poverty, sickness, destitution, or helplessness*" where "*their disability or distress arouses pity*". This very outdated view of the relief of poverty has

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<sup>33</sup> Changemakers Australia "The State Of Play – Charitable Law Issues" 15 June 2008 page 3

since been entrenched in court judgements regarding PBI status, while the common law relating to charities for the relief of poverty took greater account of social change and developments in charitable service delivery.

It is difficult to envisage a *self help organisation* of disadvantaged people obtaining PBI status because the concept of "public benevolence" is rooted in early 20th Century notions of charities dispensing benevolent relief to poor people who are unable to help.

*Second*, the courts have unnecessarily and inappropriately restricted PBI status to organisations providing aid *directly* to disadvantaged people. This is out of tune with contemporary methods of human service delivery and development. As is the case with charitable institutions, the law pays too much attention to *how services are provided* rather than their *main purpose*.

On the face of it, this excludes organisations whose main activity is prevention and promotion, policy development and advocacy, research, and support for direct service providers, even where this is directed towards improving the circumstances of disadvantaged people.

### ***A Definition for the 21<sup>st</sup> Century***

There needs to be a definitional framework to distinguish altruistic entities from other not-for-profit entities. The current requirement that PBIs are restricted to direct provision of assistance is clearly out of date. It accords neither with the needs of those that charity seeks to assist nor with the accepted best practice of how to meet those needs. The terms 'pity and compassion' which have been used previously in the judicial process appear today to be very paternalistic and demeaning. Relying on such a concept is also too subjective an approach to engender clarity in any definition.

We endorse the recommendation from the "Report of the Inquiry into the Definition of Charities and Related Organisations" of June 2001, which recommended a category to be known as Benevolent Charities. Such charities would have a main purpose of benefiting those whose disadvantage prevents them from meeting their needs. As it is intended that this category be a subset of charity, all entities falling within this category would first be required to be assessed as a charity.

This subset of charity is intended to encompass all those organisations that fall within the current meaning of PBI. However, it will be broader than PBI by organisations that do not necessarily undertake direct action to provide services to identifiable individuals.

We believe that the inclusion of the idea of ***prevention and advocacy*** in the criteria will have a major impact on the capacity of eligible NFP organisations to significantly increase their funding

streams and strengthen their roles in providing programs and services which help to prevent disadvantage.

The potential benefits of recognising **prevention and advocacy** in the PBI tax laws can be summed up by the following long term social and economic impacts:

- increased capital investment from the corporate and philanthropic sectors
- less reliance by the sector on government grants and funding
- a dramatic increase in the number of community business partnerships
- greater understanding of community need and community strengthening strategies
- increased number of financial donations to the sector
- significant increase in the sector's capacity to provide community-responsive programs and activities at the local level; and
- stronger and healthier Australian communities <sup>34</sup>

Removal of the '**direct relief**' restriction means that charities falling within the subset of Benevolent Charities will be able to adopt a more co-ordinated approach to providing assistance. It will not require them to establish separate entities to provide direct relief. The recommended approach will also not distinguish between individual entities and peak bodies. <sup>35</sup>

The basis to our proposed amendment in the definition of a Benevolent Charity (BC) is as follows:

*"A Benevolent Charity is a charity whose dominant purpose is to benefit, directly or indirectly, those whose disadvantage prevents them from meeting their needs."*

Such an amendment will not mean a blanket endorsement for all NFP organisations as applicants will still be assessed on their ability to demonstrate their compliance with all the other PBI criteria. This will afford the Federal Government with a measure of guarantee that the demand on Treasury for taxation benefits will be limited to NFP organisations established for public benevolence and not for any other purpose.

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<sup>34</sup> The Association of Neighbourhood Houses & Learning Centres, *'Prevention is better than cure....' Why Australian DGR tax laws should be amended*, August 2008 page 6

<sup>35</sup> Charities Definition Inquiry 2001, Report of the Inquiry, Canberra, page 256-257

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## Deductible Gift Recipients (DGRs)

### ***What Is A DGR?***

A Deductible Gift Recipient (DGR) is an organisation that is entitled to receive income tax deductible gifts and deductible contributions. All DGRs have to be endorsed by the Tax Office, unless they are listed by name in the income tax law.<sup>36</sup>

The income tax law sets out the general DGR categories. There are currently more than 40 categories. Examples include:

- health promotion charities
- school building funds
- scholarship funds
- public benevolent institutions
- overseas aid funds
- registered cultural and environmental organisations, and
- public libraries, museums and art galleries.

### ***Should DGR Status Continue As Is?***

The extent to which organisations can access philanthropic and corporate giving and sponsorship as a result is almost incalculable, with many citing local businesses and industries ready and willing to support them, were it not for the lack of DGR endorsement. Also it is known that not having DGR status can have serious financial implications for NFP organisations, as many philanthropic foundations and other donors do not provide funding to organisations without this status.

Classification for DGR status were developed nearly 90 years ago to enable NFPs that assist disadvantaged people to obtain specific further tax concessions, principally gift deductibility. We believe the definition for DGR status has not kept pace with changes in our society.

Concerns about the current classification include:

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<sup>36</sup> Changemakers Australia "The State Of Play – Charitable Law Issues" 15 June 2008 page 3

- It is focused in a restrictive manner only on the provision of direct services to individuals, not broader community development, advocacy, policy development or sector support activities. This is an archaic view of the current functions and roles of the Third Sector.
- Application of this classification has not kept pace with nature and breadth service and sector development over the past few decades.
- This has led to inequalities between NFP organisations with negative impacts on organisations not receiving PBI/DGR benefits. There are inconsistencies in that some political parties, cultural agencies and others serving a general population have been able to obtain PBI/DGR status while other organizations working with disadvantaged people miss out. In one community in NSW, three neighbourhood centres have PBI/DGR status while the other two do not.
- Current restrictions on PBI/DGR status exclude organisations working in the areas of prevention, promotion, policy development, research and advocacy.
- There is confusion about the legitimacy of lobbying and advocacy activities for organisations that have DGR status.
- The Australian Taxation Office decides which organisations are granted charitable status and the taxation benefits that accrue. However, issues pertaining to 'charitable' status extend far beyond the reach and expertise of a revenue collection agency. This highlights the need for a separate regulatory body for the NFP sector.

We believe the definition should be broadened to include a wider group of charities. It has been recognized for years that it is anomalous that not all tax-exempt charities are deductible gift recipients and that it is illogical, for example, that a general gift to a university is deductible but a gift to a school or church or community organisation is not.

An example is contained within the submission of the Western Sydney Community Forum to the Senate Economics Inquiry into the disclosure regimes for charities and not-for-profit organisations. Their submission mentions that there appears to be a lack of consistency and equity in the approval approach to the granting of Deductible Gift Recipient status. In a sample of Western Sydney Community Forum members, of 150 agencies 94 have Deductible Gift Recipient status and 56 do not. Yet there is often not a discernable difference between the work or structure of those organisations which have DGR and those that have not been successful in their application to the Australian Tax Office. <sup>37</sup>

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<sup>37</sup> See the Senate Economic Committee's website to view this report - [http://www.aph.gov.au/Senate/Committee/economics\\_ctte/charities\\_08/submissions/sub70.pdf](http://www.aph.gov.au/Senate/Committee/economics_ctte/charities_08/submissions/sub70.pdf)

Many NFP organisations also find that they face a need for capital at certain stages of their lifecycle. Many need capital to start up – to pay wages before regular sources of recurrent income (e.g. from the sale of services) are received, to buy equipment or to build specialised facilities. Other longer established NFPs need capital to acquire extra facilities, to replace old equipment, to adopt new technologies, to develop new programs or revenue generating initiatives. Finally, many long established organisations need capital simply to completely refurbish ageing facilities.

Traditionally, organisations within the sector have found the capital they need from among a variety of sources. These include:

- Setting aside annual surpluses over many years to build an endowment or capital fund;
- Seeking bequests and then putting them into a capital fund;
- Conducting a capital campaign;
- Obtaining a capital grant from a foundation or a business;
- Obtaining a capital grant from a government department;
- Borrowing from a bank or other approved financial institution and servicing the loan from recurrent revenue.<sup>38</sup>

Different groups of NFPs find it difficult, even impossible to access some of these sources of capital. For example, NFPs that mainly rely on government grants or contracts to fund their activities will generally find it difficult to generate a sufficient surplus to build a capital fund. Very few government programs acknowledge the need to service capital costs in their recurrent funding programs. A few however, allow for rental payments, suggesting that they assume that the NFP will lease rather than acquire property.

## ***The Way Ahead***

We believe that the current restrictions on who is eligible for DGR status is too limited in scope and crippling of too many small NFP organisations due to the overwhelming complexity of the issue. The reality is that legal advice is required to obtain DGR status, irrespective of how clear the claim to it may be. This puts DGR status out of the reach of too many NFP organisations. So this process must be streamlined.

PilchConnect state that 40% of the requests they receive for assistance from NFPs relate to eligibility, and the process for obtaining or disputing, tax concessions – in particular, DGR status.

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<sup>38</sup> The National Roundtable of Nonprofit Organisations, Discussion Paper prepared by Mark Lyons, Andrea North-Samardzic and Angus Young titled "DO AUSTRALIA'S NONPROFITS FACE A CAPITAL CRISIS?", June 2006, page 2-3

Nearly all applicants are confused about the terminology and the categories that exist. Some within the same 'group' of organisations have different success in obtaining DGR or TCC status depending on which local ATO office they have applied to.<sup>39</sup>

For a good example of the difficulties faced by a NFP, please refer to the submission by the Human Rights Arts and Film Festival to the Senate Inquiry into the Disclosure Regimes for Charities and Not-for-Profit Organisations.<sup>40</sup> Their experience is common place across and sector. Yet for the sector to continue to grow and develop to meet the increasing needs within our society, there must be a more simple process for organisations to access DGR status.

We also advocate for a broadening of the definition on what type of organisation does qualify for DGR status. In New Zealand, for example, the intention is that charities registered with the new national regulator of charities will automatically receive tax exemption and deductible gift status although, unlike in Australia, there is a cap on income tax deductible donations. Similar arrangements exist in Canada, where a charity registered with the Canada Revenue Agency is exempt from income tax and can issue charitable donation receipts for tax purposes.<sup>41</sup>

We also advocate for the inclusion of organisations working in the following areas within the group of organisations who have access to DGR status:

- Prevention,
- promotion,
- policy development,
- community development,
- sector support – e.g. services provided by peak bodies, and
- research and advocacy.

We believe that the inclusion of these areas would greatly help the continued growth and development of the sector, as it strives to continue to be a vital support and service to the community here in Australia.

We recognise that it is important for DGR status not to be abused by NFP organisations. So while we believe that a far greater number of NFP organisations have should access to DGR status, the

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<sup>39</sup> PILCH – Sue Woodward, "Removing complexity, adding coherence: A Proper framework for concessional tax treatment of charities and not-for-profit entities" 17 October 20 17 October 2008 page 8

<sup>40</sup> Human Rights Arts and Film Festival submission to the Inquiry into the Disclosure Regimes for Charities and Not-for-Profit Organisations: [http://www.aph.gov.au/Senate/Committee/economics\\_cte/charities\\_08/submissions/sub133\\_pub.pdf](http://www.aph.gov.au/Senate/Committee/economics_cte/charities_08/submissions/sub133_pub.pdf)

<sup>41</sup> Website of the Canada Revenue Agency 2005, [www.cra-arc.gc.ca/E/pub/tg/t4117/README.html](http://www.cra-arc.gc.ca/E/pub/tg/t4117/README.html), accessed 25 March 20059

greatest challenge brought about by broadening the definition will be ensuring that DGR organisations have the legitimate and altruistic intentions that should be associated with DGR status.

So we advocate that the availability of DGR status be broadened to include all organisations that qualify under the revised definition of charity we have presented. This will alleviate some of the general public's uncertainty as to the difference between a charity and DGR.

We also believe that this would be a catalyst which would enable philanthropic giving to the work of charities around Australia to increase. Currently some organisations within the sector are unable to access grants from philanthropic trusts because they do not qualify under the current terms for DGR status.

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## Fringe Benefit Tax (FBT)

### ***What Is FBT?***

The FBT was introduced in 1986 and is collected from employers, levied on a comprehensive base, imposed on the grossed-up value of fringe benefits, and taxed at a flat rate equal to the top personal income marginal tax rate. Put simply Fringe Benefits Tax is a tax payable by employers for benefits paid to an employee or the employee's associate. FBT is separate from income tax and is based on the taxable value of the various benefits provided.

A number of benefits remain exempt from fringe benefits tax, and are income tax free to the employee. The employer also gets a tax deduction for the cost of the benefit. Further, some fringe benefits taxable to the employer are taxed at values well below the cost an employee would incur if they had to pay for them personally (for example - cars, loans, discounted goods and services).

These may be attractive benefits, particularly for employees on the maximum rate of income tax. For example some sections of the sector currently receive assistance to help them offset the cost of employing staff through FBT concessions. In particular, under Subsection 57A(1) Fringe Benefits Tax Assessment Act 1986 public benevolent institutions and certain public and not-for-profit hospitals can provide up to \$30,000 and \$17,000 per annum, per employee, in fringe benefits without attracting any liability to pay FBT.

### ***Should FBT Concessions Continue?***

We believe they should continue. The FBT exemption remains to assist Charitable Institutions and Public Benevolent Institutions to attract competent staff and retain a workforce on the limited salaries offered. The ability to attract competent staff allows these organisations to deliver better services. So FBT concessions and exemptions are an important component in the financial viability of charitable services enabling the provision of a significant level of services that would otherwise be curtailed. In defending the importance of the FBT concessions the Parliamentary Secretary for Social Inclusion and the Voluntary Sector, Senator Ursula Stephens, recently stated that:

“The Government will continue to find new ways to support and promote the crucial work of the staff and volunteers within the sector in helping disadvantaged Australians.”<sup>42</sup>

We endorse Senator Stephen’s view that FBT concessions should continue, though with major changes. The Institute of Chartered Accountants recognises that the current FBT structure “is fraught with increasing complexities, economic inefficiencies and tax inequities” and as a result there is an urgent need for an overhaul”.<sup>43</sup>

### ***FBT in the 21<sup>st</sup> Century***

As we have stated FBT concessions and exemptions are an important component in the financial viability of charitable services enabling the provision of a significant level of services that would otherwise be curtailed. However we would like to propose that the current structure of FBT arrangements be reviewed and improved for equity and simplicity.

Currently, in respect of religious institutions, fringe benefits are exempt where provided to a religious practitioner in relation to their pastoral duties or their study and teaching of their beliefs. Responsible limits are adopted by most religious institutions in the application of this exemption and we fully endorse that process. However we would like to see that these concessions were made available to all workers who are actively involved in religious organisations.

Also we advocate consideration of a group endorsement or registration system where there are multiple entities that are in reality parts of a whole institution. This would mean a “base-line” FBT concession treatment that would attach to a TCC endorsement of an organisation which is a part of that group. All parties within the group would then be on the same platform. This would greatly reduce the administrative workload of organisations within the sector.

The FBT tax concessions are also inequitable in that many smaller groups within the sector that could potentially benefit from the exemptions do not have the administrative capacity to access it. This means that some of the smallest organisations in the greatest need are also the least able to access the system. So the FBT regime would be further improved by the introduction of a scheme whereby group registrations were also available for FBT exemption treatment across sub-sets within the Third Sector, e.g. through peak bodies. This would enable smaller charitable bodies

<sup>42</sup> See Media Centre site for Education, Employment and Workplace Relations portfolio <http://mediacentre.dewr.gov.au/mediacentre/> and media release by Senator Stephens of 23 June 2008 -

<http://mediacentre.dewr.gov.au/mediacentre/AllReleases/2008/June/FringeBenefitsTaxDecisionBigWinforNotForProfitSector.htm>

<sup>43</sup> See Institute of Chartered Accountants website - [http://www.charteredaccountants.com.au/?location=ut\\_text](http://www.charteredaccountants.com.au/?location=ut_text) and their media release of 17 March 2006 called “Fringe Benefits Tax labelled inequitable, inefficient and complex” found at [http://www.charteredaccountants.com.au/news\\_releases\\_2006/march\\_2006/A116956626](http://www.charteredaccountants.com.au/news_releases_2006/march_2006/A116956626) - accessed 25 March 2009

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which are affiliated with a central organisation or peak body to be recognised for the purposes of a group registration.

This would also enable an efficient system of affiliated organisations within the same existing accountability structure to operate with a single registration and endorsement process. At present these entities are required to separately be endorsed, and under the current system these entities are seen in isolation instead of as part of the whole. In a similar way such group treatment is already available with GST registration, as is the exemption for affiliated religious institutions under the Charitable Fundraising Act 1991 (NSW).

There is no doubt that there are net benefits to the sector, and its workers. However the use of FBT tax concessions requires the Third Sector to rely on one of the most administratively complex elements of the taxation system. The compliance burden placed on the sector diverts a significant component of the cost to the tax payer away from its intended beneficiaries and into administrative expenditure.

In addition the definition of public benevolent institutions is such that some organisations who face similar funding problems and who provide similar services may not be eligible for the FBT concessions. We would encourage the Review Panel to broaden this definition to allow organisations providing similar services to all being eligible for FBT concessions.

We also believe that the current threshold for exempt minor fringe benefits should be increased and by exempting those benefits that have high compliance costs, which were non-deductible to employers, the current legislation would be simplified by removing the need for employers to account for every small fringe benefit.

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## Capital Gains Tax (CGT)

### ***What Is CGT?***

Capital Gains Tax is generally thought of as a tax on the rich. However, increasing levels of share ownership by small investors means that it is affecting more and more middle income earners. Capital gains tax generally applies only to assets acquired after 19 September 1985. It is prospective; that is, it taxes only gains made after that date, and is charged only when the asset is disposed of (or sometimes deemed to be disposed of).

### ***Should CGT Exemption Continue?***

Currently bodies presently exempt from income tax, such as charities and PBIs, are exempt from capital gains tax. We would advocate that the current exemption from CGT for charities and PBIs would continue to be the case under the Future Tax System.

In reading submissions to date, we have found that many within the sector have failed to recognise that this area is included in the whole review process. To see concessions removed from those organisations which are eligible for it would have a huge impact of the future strategic planning and growth of the Third Sector. With funding such an issue for the sector, to have the possibility of having to pay CGT on various “asset” transactions would stifle any initiative within the sector for growth. This would then influence the organisation’s ability to continue to fund their services to the community.

We would caution the Tax Review Panel from moving into the abolition or tampering with this tax from a charity perspective. We recognise there has been some recent push by groups like the Australia Institute which is pushing for an across-the-board change to this particular tax.<sup>44</sup> While recognising that in some areas, what they are saying may be valid we also recognise the serious impact this would have on the Third Sector.

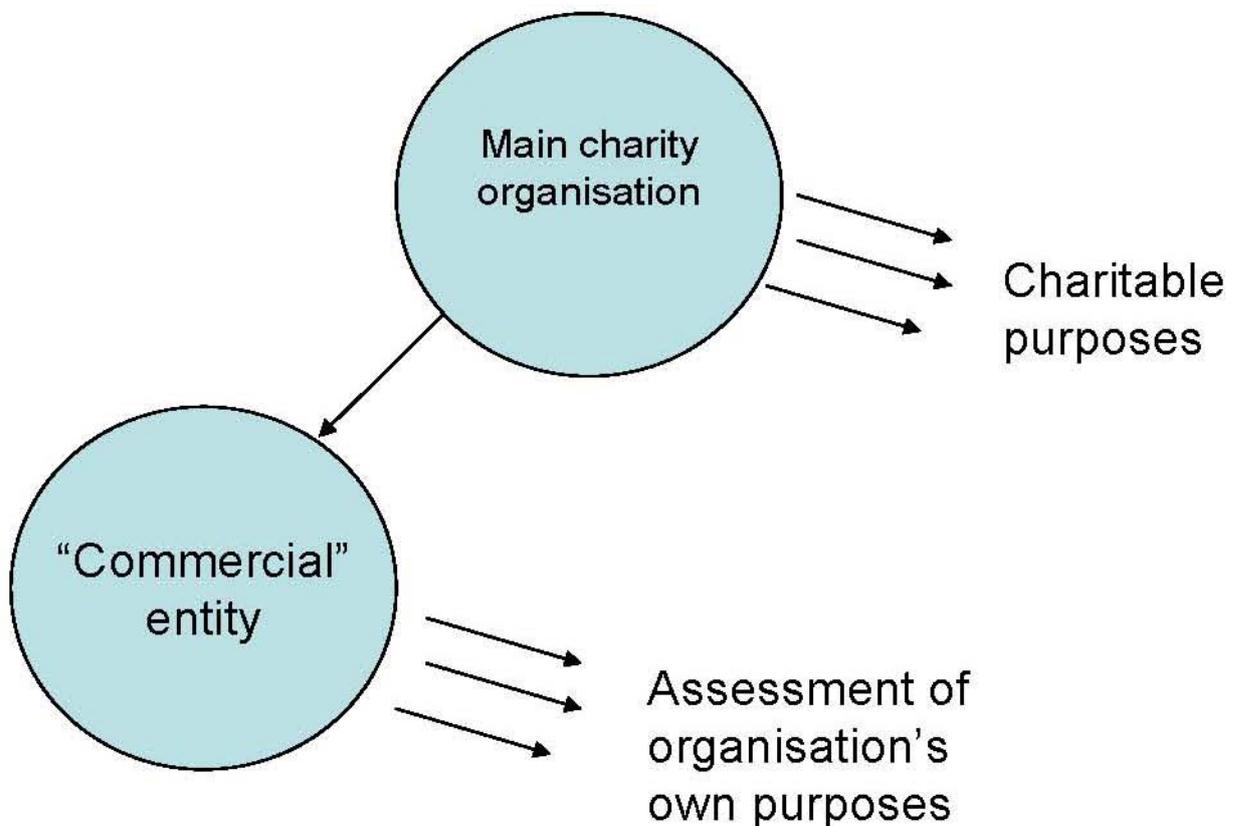
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<sup>44</sup> David Ingles, The Australia Institute, “Tax equity: Reforming capital gains taxation in Australia”, April 2007

## Commercial Activities

The Australian Taxation Office (ATO) states that carrying on a commercial enterprise to generate surpluses is not charitable, though they clarify this with a statement like “Charities can carry out commercial and business activities where they are only carried out for the sake of, and in aid of, or in furtherance of the charitable purpose”.<sup>45</sup>

In Tax Ruling 2005/22, the ATO determined that companies that are controlled by exempt entities aren't automatically exempt themselves. It was the view of the ATO at the time that each entity must meet the exemption requirements.<sup>46</sup> This meant that charities undertaking commercial activities that were also carrying on charitable activities were responsible for keeping the two entities separate. The figure below summarises how the ATO viewed this issue under TR2005/22.



<sup>45</sup> Australian Taxation Office, “Income Tax Guide for non-profit organisations”, September 2006 page 36

<sup>46</sup> See the ATO website – [www.ato.gov.au](http://www.ato.gov.au) and the Tax Ruling TR 2005/22 – at <http://law.ato.gov.au/atolaw/view.htm?docid=TXR/TR200522/NAT/ATO/00001>

In the past the ATO has also drawn an unwarranted distinction between active and passive investment. It seems to have assumed that it may be charitable for an organisation to receive funds from investors who may or may not have been encouraged to support its goals and ideals, but that it cannot be charitable for the organisation to actively establish a business to derive similar income.

The 2001 Charities Inquiry examined the issue of how charities in the future were going to be supported. It was during the discussion that the area of compassion fatigue by donors was raised. It was felt then that this would potentially lead to not enough financing from donors, and of course limits to government grants meant that charities were potentially exposed to a shortfall in their long-term viability. As a result of this, the inquiry recognised that charities would have to find more creative ways to support their work. So as more charities try to do more with fewer resources, business activities, more often than not that are synergistic to their charitable purpose, have become increasingly important as a source of funding.<sup>47</sup>

ACROD noted that pressure to engage in income-generating activities more generally came from:

- A climate of fiscal restraint and increasing cost pressures;
- Demand for services exceeding the level which can be met by current levels of government funding;
- Increasing competition for philanthropic funds;
- Governments expecting non-government organisations to find alternative sources of funding to subsidise their service provision;
- Governments becoming increasingly reliant on non-government service providers; and
- A growing trend towards social entrepreneurship.<sup>48</sup>

The Report of the 2001 Charities Inquiry recognised that:

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<sup>47</sup> Stephen Crittenden, "Churches, Charities and tax" – interview with Murray Baird, ABC Radio National Religion Report, 6 August 2008

<sup>48</sup> Charities Definition Inquiry 2001, Report of the Inquiry, Canberra, page 223

- For-profit business organisations can raise money in capital markets by issuing shares and by entering loan agreements. Not-for-profits are not able to raise money in the capital markets through equity or debt.
- Not-for-profits must rely on government grants, donations, or funds generated by their commercial activities. So the Inquiry did ***not*** accept the notion that charities have an unfair advantage over for-profit organizations.
- The “unfair competition” argument was weak because charities do not have income in the sense used in the taxation laws: charities do not have profits to distribute to shareholders or members. The funds of not-for-profits are devoted to the provision of services.
- Since charities cannot raise equity or debt in capital markets, generating a surplus from commercial activities was one of the only ways to get reserves to undertake capital works or long-term commitments.
- Tax exemption did not give unfair advantage to not-for-profits, given their limited scope for fund-raising.
- Competitive neutrality should not be a factor in defining a charity: It would be inappropriate for the definition of a charity to change because other sectors of society engage in activities previously undertaken only by charities...if they (charities) retain their characteristics of being not-for-profit and with a dominant purpose that is charitable, altruistic and for the public benefit.
- Commercial activities are acceptable when not conducted for the profit or gain of any particular person or group of persons. If the dominant purpose of the organisation is charitable, then any other purposes must further the dominant purpose, or be in aid of it, or be ancillary or incidental to the charitable purpose.
- Charities are compelled to find innovative ways to raise funds: Conducting commercial enterprises as a fundraising operation can be an important, at times essential, element in

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enabling a charity to achieve its charitable purpose. Governments have sought to foster partnerships between the community and for-profit sectors.<sup>49</sup>

In the recent High Court decision of the Commissioner of Taxation of the Commonwealth of Australia v Word Investments Limited, the ruling given by the court provides an opportunity for subsidiaries of charities to conduct commercial activities without losing their charitable status.<sup>50</sup>

We believe that this ruling is important and helps clarify circumstances in which not-for-profit organisations that raise funds through business or commercial activities and all their activities will continue to be considered as charitable.

We would encourage the Review Panel to continue to provide this opportunity within the Future Tax System, so as charities are able to ensure they have adequate funding to continue to sustain and improve the valuable service to our community that they provide.

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<sup>49</sup> Charities Definition Inquiry 2001, Report of the Inquiry, Canberra, pages 219-231

<sup>50</sup> See the website of the High Court of Australia – [www.hcourt.gov.au](http://www.hcourt.gov.au) and the media release of 3 December 2008 at [http://www.hcourt.gov.au/media/Commissioner\\_of\\_Taxation\\_v\\_Word\\_Investments.pdf](http://www.hcourt.gov.au/media/Commissioner_of_Taxation_v_Word_Investments.pdf)

## Imputation Credits

Franking credits arise for shareholders when certain resident Australian companies pay income tax on their taxable income and distribute their after-tax profits by way of franked dividends. These franked dividends have franking credits attached. Franked dividends are received either directly as a shareholder or indirectly as a beneficiary of a trust.

From 1 July 2000, the Business Tax System (Misc) Bill 1999 allowed for the refund of excess imputation credits to registered charities and tax-deductible organisations. The bill allows for franking credits attached to franked dividends received by endorsed income tax exempt entities, deductible gift recipients and developing country relief funds to be refundable, provided the eligibility criteria are met. As a result of this change and later changes in 2004, there were additional millions of dollars made available for charitable distribution annually.

For many organisations within the Third Sector, the tax credit (franking) that goes with fully franked dividends is a key part of their investing strategy and one which has been a major benefit to them over the years. But let's be clear here, charities who receive franked dividends from corporates have borne some risks to get those dividends via exposure to the daily rise and fall of listed share prices. But these organisations have been encouraged to be "passive" in their investment in this way by the ATO attitude to charities not being involved in commercial activities. As a result this area has become quite a significant form of funding for many organisations across the sector.

Removing franking credit windfalls by ending full dividend imputation, especially at the moment, would not only lead to a fall in share prices – just as the introduction of it in 1987 led to a spike in share prices between July and September that contributed to the October 1987 stock market crash – but also seriously impact upon the funding of charitable organisations within the sector.

We support the Treasurer Wayne Swan in his recent statement – *"I personally think dividend imputation has delivered an enormous benefit to the Australian economy. It, like all other issues in the tax system, is being reviewed by Dr Henry in his review. But from my perspective it has played a very important role in our economy and I think it's a very worthwhile initiative."*<sup>51</sup> We believe that this is especially true for the Third Sector, as the franking credits have enabled many charities and

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<sup>51</sup> Peter Martin, Canberra-based economics correspondent for the Melbourne *Age* newspaper, His blog of 23 April 2009 - found at <http://petermartin.blogspot.com/2009/04/ive-set-up-this-inquiry-see-but-im.html>

not-for-profit organisations to fund and grow their services to our community. To remove them would seriously impact these services.

We strongly advocate for the continuance of imputation credits within the new Tax System. It has become a cornerstone for investment strategy for the sector and provides a significant funding base for growth and development across the sector.

## Conclusion

### 1 What is the appropriate tax treatment for NFP organisations, including compliance obligations?

The Third Sector requires one overall simplified tax exemption scheme that is underpinned by a rational basis for the determination of charitable entities. Taxation exemptions should provide support to the sector rather than create a barrier by continuing to institute a complex and inconsistent regulatory framework. A new application process should be created so that charities PBIs and other NFPs may apply for all forms of tax exemption within one application.

We believe that it would be illogical for the Future Tax System to impose taxes on charities and not-for-profits when the Government is dependent on this sector for services and support to the community that the Government would otherwise be required to provide. It must be recognised that the removal of tax concession status from charities and not-for-profit organisations would seriously impact on their ability to provide their current level of service. If services were to reduce, many Australians would be worse off and more dependent on Governments for assistance. This would add further to the burden on the tax system, through increased costs for the Government to take over providing those services.

Without specialist legal advice it is very difficult for NFPs to access the tax concessions that they are entitled to under the current regime. NFP entities find it difficult to understand whether they are entitled to tax concessions, what those tax concessions are and how to apply for the tax concessions. Such frustrations have been best enunciated by NFP peak organisation, the National Roundtable of Non-Profit Organisations:

*“It is in tax law that the greatest confusion is to be found. There are a great variety of concessions given by different levels of government, each to a variety of nonprofit organisations. It is impossible to find any set of principles underpinning the legislation that designates these concessions. There are no clear links between the concessions provided and public disclosure requirements. Not surprisingly, in such an environment regulation is confusing, contradictory and often unfair.”*<sup>52</sup>

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<sup>52</sup> National Roundtable of Nonprofit Organisations, ‘Nonprofit Regulation Reform Program’ National Roundtable, May 2004.  
<http://www.nonprofitroundtable.org.au>

Miles McGregor-Lowndes says: “the multi-tiered definitional maze of charitable institutions, funds, public benevolent institutions, deductible gift recipients that only the most “life deprived lawyer or treasury official” can conceptually grasp...is at odds with the rest of the developed world.”<sup>53</sup>

We recommend:

1. That the recommendations of the *Inquiry into the Definition of Charities and Related Organisations* (2001) and the *Senate Standing Committee on Economic Inquiry into the Disclosure Regimes for Charities and Not-For-Profit Organisations* (2008) be implemented.
2. That the distinctions between charities and other not for profit organisations (NFP), and the implications of these distinctions, are clear and factored into any proposed changes.
3. That the existing criteria and eligibility for ‘charitable’ tax concessions be reviewed to reflect the contemporary functions and value of NFP organisations and support the financial viability of the sector .
4. That a single national Act to regulate the whole (NFP) sector be introduced and administered by a single national regulatory body.
5. That this framework takes account of the differing needs and resources (such as income, assets and number of staff members) of NFP organisations.
6. That this inquiry institutes a taxation system with the ability to simplify, clarify and update the taxation system as it impacts on NFP organisations.
7. That any changes to the regulation and governance of NFP organisations be accompanied by an extensive education program, funded by the Federal government.

**2 Given the impact of the tax concessions for NFP organisations on competition, compliance costs and equity, would alternative arrangements be a more efficient way of assisting these organisations to further their philanthropic and community-based activities?**

The term “not-for-profit” creates a perception that profit is not necessary to organisations within the Third Sector, and that profit or lack of it is a defining factor. We need these organisations to be sustainable, properly capitalised and funded. Opportunities for charities and their subsidiaries to conduct commercial activities without losing their charitable status is a very important part of what should shape the Future Tax System for the Third Sector. This would be one step in the process of ensuring they have adequate funding to continue to sustain and improve the valuable service to our community that they provide.

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<sup>53</sup> McGregor-Lowndes, M. "Driving Forward Whilst Looking in the Rear Vision Mirror" Australian Philanthropy Summer 2007 page 67

It is important to recognise the essential differences between organisations within the sector from profit-making entities: in a for-profit organisation the quality of the services provided determines the quantum of the revenue. In a NFP organisation the quality of the services provided fulfils the mission. It is the quality of relationships which determines the quantum of the revenues. The organisation's mission is therefore a critical element of the organisation because it is the mission that inspires people to donate. This is something we cannot lose sight of in this review.

Peter de Courcy Hero of Melbourne Community Foundation stated that government should be looking at strengths and assets NFPs bring to communities. NFP leaders, he argues, possess tremendous potential that is “critical for building civic society”.<sup>54</sup>

Also critical to the vitality of the Third Sector is the passion of social entrepreneurs. Social innovation, new ideas and different approaches lead to the formation of new innovative organisations. This needs to be further encouraged to develop within the sector.

As was stated above, the current confusing array of laws and regulations entwining NFP organisations has a number of deleterious consequences – for governments, for the general public, for philanthropic organisations and businesses, as well as for the sector as a whole. From a government perspective the absence of a national single regulator has meant the government has lacked data and knowledge of the sector and therefore unable to fully develop appropriate policies for the development of the work of organisations within the sector.

From the perspective of the general public as well as philanthropic organisations and businesses, the lack of a central simplified system means there is a low level of understanding of the sector and as a result reduces the movement towards informed giving. Donors and grant makers struggle to obtain information to enable them to make informed choices about their giving. This has a serious impact of the future funding and growth of the work of the sector.

“The administrative burden placed by funders on community nonprofit organizations is so heavy and so unrelenting, and places so many constraints on their ability to operate that it is a wonder they can deliver any services effectively.”<sup>55</sup>

Organisations within the sector have played a large and vital role in the development of many of the social institutions that Australians rely on for services, recreation and identity. Overall the

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<sup>54</sup> ProBono Australia, Article “The Impact of the Financial Crisis on Philanthropy - a Cross Sector Analysis” - see a summary posted 16 March 2009 at [http://www.probonoaustralia.com.au/news/detail.chtml?filename\\_num=268424](http://www.probonoaustralia.com.au/news/detail.chtml?filename_num=268424) accessed 25 March 2009

<sup>55</sup> Eakin, Lynn. *We Can't Afford to do Business This Way: A Study of the Administrative Burden Resulting from Funder Accountability and Compliance Practices*. Toronto: Wellesley Institute, 2007

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sector is keeping pace with the changing dynamics of our world. However anecdotal evidence suggests that red tape, lack of understanding and risk are causing major problems and leading some exciting initiatives to expire prematurely or to a less-appropriate for-profit form.

With regards to the Third Sector, the Future Tax System should have all the outcomes of the present tax system, with some definition changes to incorporate wider range of organisations eligible for Charity, PBI and/or DGR status as stated in the submission above.

We would also encourage the Tax Review Panel to explore ways for the level of philanthropic giving and business giving that currently exists towards the work of the sector to increase significantly in the future. An example of how this might occur could be extra incentives for donations to charities that are benevolent. The provision of further incentives would attract large donations from companies and high wealth individuals to DGRs and PBIs.