Submission on
Australia's Future Tax System

NDS welcomes this opportunity to provide input into the review of Australia's Future Tax System and is pleased to expanded opportunities for those who remain disadvantaged".[1] People with disability are one of the most disadvantaged groups in Australian society.

NDS's interest in the future structure of the tax-transfer system is, simply, to maximise opportunities for people with disability to have a decent life. Achieving this requires action on two levels: the current taxation arrangements which assist disability service organisations to maximise their charitable purpose (including having the workforce necessary to provide services) need to be reaffirmed; and people with disability need to be assisted to obtain and maintain employment (and ultimately have a reasonable retirement income).

The disadvantages currently experienced by people with severe disability are extensive—alleviating them by increasing the level of the Disability Support Pension, reducing disincentives to work and strengthening the sustainability of the disability services which provide support are overdue.

General comments

Not-for-profit (NFP) organisations are an integral part of the social fabric of Australia; they connect with the lives of Australians in diverse and important ways. Most Australians will belong to, or gain support from, a NFP organisation at least once and probably at several points of their lives. NFP organisations provide services, social networks, skills development and recreation. As a whole, they help cultivate democratic habits (active participation, mutual aid, cooperation with strangers). They are at the heart of civil society.

[1] Attorney-General's Department 2008, *Architecture of Australia's tax and transfer system*, Commonwealth of Australia, Canberra, p. xii.

All NFP organisations are affected by the operation of government, although to greatly varying degrees. For some, the relationship with government extends no further than that the Government sets the regulatory framework that governs them. Community service organisations are at the other end of the spectrum. They provide essential social services but their role and impact extends much further than this.

> Community services are a vital part of Australia's social and economic infrastructure and are used by most Australians at some point in their lives. Community services not only support individuals and families, but also build social cohesion, enhance equity, give voice to the needs of disadvantaged groups, mobilise voluntary effort and philanthropy and achieve systemic change. They are one of the key mechanisms by which strong, effective communities are fostered and maintained.[2]

Disability service providers—the organisations which NDS represents—receive government funding for the provision of various support services but invariably supplement this work with additional resources, including from voluntary effort and fund-raising. They exist to respond to the needs of some of the most disadvantaged people in our society, needs which are not provided for by for-profit organisations. And they do this in a cost-effective manner. Indeed, the provision of these essential community or social services by governments themselves would require significantly greater expenditure.

NDS considers the tax exemptions and other concessions provided to NFP organisations, charities and Deductible Gift Recipients to be appropriate and not a cost to Government revenues. Taxes are intended to be applied to private wealth. Within a disability service provision organisation, surpluses are not distributed to individuals but are re-invested in activities associated with the charitable purpose of the organisation—there is no accumulation of private wealth.

Any surpluses that may be generated by NDS members are used to support people with disability; they are ultimately expended as additional services. Suggestion that the tax concessions that assist in the generation of these surpluses should be measured in terms of 'a cost to government' is inappropriate and a misrepresentation of reality. These surpluses support the provision of services that would otherwise need to be directly funded by governments.

NDS acknowledges that while the Government may need to broaden the availability of some tax concessions to other types of NFP organisations, it is critically important that disability organisations are not disadvantaged by any proposed changes.

Currently, the provision of disability services is challenged by difficulties in recruiting and retaining staff. Relatively low pay rates for disability support workers is a key factor. Some of the tax concessions available to the sector, notably fringe benefits tax exemptions/rebates that facilitate salary packaging, mitigate these low pay rates by effectively increasing the 'take home' benefit of the remuneration. This helps lower the staff turnover rate. Unfortunately, the lack of indexation has meant that the advantage of this tax concession has been eroded over time. It is hoped that this will be addressed in this review. It is of particular concern to NDS that even greater workforce shortages in the disability sector are predicted into the future.

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[2] The Australian Collaboration: A collaboration of national community organisations 2001, *A Just and Sustainable Australia*, ACOSS, Redfern, p. 50.

NDS would also like to see the review of the tax system respond to the persistent low employment rates of people with disability. While the general workforce participation rate has risen over the past two decades (to over 80%), the workforce participation rate of people with disability has remained static (at around 53%).[3] The employment rate of people with disability similarly trails that of the general workforce. Reviewing the Disability Support Pension (DSP) taper rate and providing access to concessions and entitlements as a means of encouraging people to enter employment is warranted. Also important is ameliorating the risk of accepting employment; if employment ceases, regaining the DSP should be a simple process.

Responses to specific questions

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

NDS reiterates that the current structure of GST concessions for NFP organisations, charities and Deductible Gift Recipients is appropriate, and assists the sector in its charitable purpose—to provide support to disadvantaged Australians. They should be retained.

Comment on a number of important tax arrangements for disability service providers follows.

- **Retain GST concessions**

All current GST concessions for NFPs, charities and Deductible Gift Recipients are appropriate and should be retained. GST concessions are applied in non-commercial areas and assist by:

  - providing GST relief to disability service providers;
  - providing GST relief to some people with disability and some chronic illnesses; and
  - simplifying administration.

Recommendation

All current GST concessions for NFP organisations, charities and Deductible Gift Recipients should be retained.

- **Retain the tax deductibility of donations**

NDS supports the existence of tax deductibility of donations to disability service organisations with Deductible Gift Recipient status. This tax provision encourages public donations to support the work of the sector.

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[3] AIHW, *Australia's Welfare 2007*, pp 197-198.

Recommendations

> That current arrangements for the tax deductibility of donations to organisations with Deductible Gift Recipient status be retained.

- **Retain the ability to claim imputation credits**

Investment income funds the work of many charities, to varying degrees. Imputation credits were introduced to avoid the double taxation of company profits. Later amendments improved the system by allowing charities and Deductible Gift Recipients to claim a refund of imputation credits associated with dividends. The result is a treatment of imputation credits for charities that is fair and prevents the inadvertent taxation of charities and Deductible Gift Recipients through the investments that they may hold.

It should be noted that any changes to current arrangements would also substantially alter the investment decisions of charities and Deductible Gift Recipients and prevent a proper consideration of diversified investment.

Recommendation

> That charities and Deductible Gift Recipients retain the ability to claim refunds of imputation credits associated with dividends and trust distributions received by them.

- **Raise the Fringe Benefits Tax exemption/rebate cap**

NFP disability service providers across Australia are experiencing increasingly severe workforce shortages, exacerbated by wage levels which are limited by inadequate government funding. These shortages have intensified under recent tight market conditions and the inability of the sector to pay comparable wages.

Many disability service providers are endorsed as Fringe Benefits Tax (FBT) exempt employers and use the allowable fringe benefits arrangements to offer salary packaging to help attract and retain staff. The introduction, in 2001, of the FBT exemption/rebate cap (set at a grossed-up value of $30,000 per employee in each FBT year) enabled eligible employers to effectively increase the value of employees' remuneration and assisted in the recruitment and retention of staff. Low paid workers benefit.

The value of this benefit has, however, been eroded over recent years. Since 2001, the Fringe Benefits Tax exemption/rebate cap has not been increased from $30,000 grossed-up value per employee despite undertakings by the Treasurer at the time to review this cap regularly in light of changes in average wage levels. No increase has been made to this figure to allow for inflation, despite average weekly ordinary time earnings increasing markedly over these years.

NDS was pleased to see this important issue discussed in Federal Parliament in June 2008, with a proposal by the Australian Greens to lift the FBT exemption cap to $40,000. While the amendment was defeated, both the Government and the Opposition indicated support for its intent. This review of the tax system provides the ideal opportunity to re-visit this issue. Unless the sector can increase the real value of the salary packages paid, workforce shortages will threaten both the viability of the sector and the quality of the services it provides.

Recommendations

> That the Fringe Benefits Tax exemption/rebate cap for eligible organisations be increased in line with increases in 'average weekly ordinary time earnings' since 1 April 2001.
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> That indexation to annually adjust the Fringe Benefits Tax exemption cap is introduced.

- **Change the Fringe Benefits Tax liability for occasional car use**

Restricted commuter use cars are those generally stored on the premises of the employer and used during the day extensively for work related purposes by a variety of employees. Occasionally these cars are 'taken home' by an employee. This, however, is not generally a benefit to the employee but is because:

i. it is a more efficient use of time. For example because that person's first appointment is out or near their home and it is a more efficient use of time to take the car home;

ii. it is cost effective. For example the first appointment is closer to the employee's home than work.

To employees, the occasional use of one of the pool cars is not generally seen as a remuneration item. To employers, the calculation of this 'benefit' is administratively costly.

Recommendation

> It is suggested that restricted commuter use of a car be subject to an exemption of $2,000 in taxable value per annum. This will relieve the administrative costs associated with this minor benefit.

- **Retain the calculation of entitlement for Family Assistance benefits**

A budget measure announced in 2008 proposed changes to the approach used to calculate entitlement to Family Assistance benefits. The impact of the proposal—to move to using the gross value of reportable fringe benefits rather than the net value—would have had serious impact on the family assistance payments available to many employees of not-for-profit community service organisations. The following example demonstrates the potential impact:

> If an employee of an FBT exempt employer earning $34,000 per annum currently elects to take $15,000 pa as an FBT exempt fringe benefit, it leaves a taxable salary of $19,000 per annum. This arrangement provides a net salary and benefits package equivalent to that normally delivered from a gross salary of approximately $37,000. If the gross value of reportable fringe benefits was used to calculate family assistance, this figure would be approximately $47,000, a significant overstatement of the real value of the fringe benefit to the employee. The reduction in Family Assistance benefits that would result would be unfair, particularly on these low paid workers.

As a result of reasoned arguments, legislation was passed which prevented the introduction of this measure, which would have adversely affected the income of lower-wage employees and ultimately the capacity of disability service providers to recruit and retain staff.

NDS would like reassurance that the calculation of entitlement for Family Assistance payments—using the net value of reportable fringe benefit—will be retained for organisations that are FBT exempt. This is critically important for the low-wage workers in the disability sector.

Recommendation

> That the current method of calculation of entitlement for Family Assistance payments and other Government benefits—based on the inclusion of the net value of reportable Fringe Benefit Tax—be retained.

7.2 Given the impact of the tax concessions for NFP organisations on competition, compliance costs and equity, would alternative arrangements (such as the provision of direct funding) be a more efficient way of assisting these organisations to further their philanthropic and community-based activities?

NDS supports the continuation of existing tax and funding arrangements that assist disability service organisations to further their community-based activities and makes the following comments:

- **Commercial neutrality**

NDS asserts that if a business activity of a disability service provider is incidental to the charitable purpose of that organisation it should not be taxed—that it is the purpose not the nature of the activity that should determine whether it should be taxed. This principle was affirmed by the High Court last year in the Word Investment case, where it found that the goal of making a profit was not an end in itself but was incidental to a charitable purpose.

This approach is supported by considering the impact of taxing the business activities of charities. Such a tax would result in fewer support services—the charitable purpose—being delivered and people with disability would be further disadvantaged. Governments would ultimately be called upon to address this shortfall by funding these activities.

Direct funding

NDS would be concerned by any proposals to replace tax concessions with direct funding. The current funding arrangements for the provision of disability support services—sometimes through different levels of government and numerous departments—are complex. Calculating the direct funding that was appropriate and fair may be impractical, if not impossible.

The complexity of this task would be compounded by the range and take-up of salary packaging arrangements within disability organisations and across the sector. Concern exists that direct funding calculations may overstate the prevalence of salary packaging and therefore result in lower funding being provided. This funding arrangement could ultimately put downward pressure on wages—in an already low paid sector.

Recruiting and retaining staff would become more difficult.

NDS would also be concerned that the introduction of direct funding to replace tax concessions could undermine the stability and sustainability of the sector—direct funding decisions may be applied at an administrative level and could be subject to budgetary decisions. Current arrangements (for tax concessions) are legislated, thus provide greater certainty for the sector.

Recommendation

> The current structure of tax concessions provides a level of certainty for disability service providers and should be retained.
>
> Substituting direct funding for existing tax concessions is not considered a practical or sustainable option to replace the range of tax concessions provided for NFP organisations, charities and Deductible Gift Recipients.

4.12 In a targeted system there is a trade-off between the level of income support and workforce incentives. Given this, what priority should be given to reducing the disincentives to work?

Between 1988 and 2003 (the time of the last ABS Survey of Ageing Disability and carers) the workforce participation rates of people with disability sat well below those of people without disability (about 30 percentage points lower for males and 22-25 percentage points lower for females). Participation rates for people with severe or profound disability were even lower and, of particular concern, declined between 1998 and 2003. For women with severe or profound disability, this decline occurred during a period of significant increase in the general female workforce participation rate.[4]

[4] AIHW, Disability in Australia: trends in prevalence, education, employment and community living, Bulletin 61, 2008, p. 22.

The employment rate of people with disability similarly trails that of the general workforce; their vocational education and training (VET) participation rate is low and career pathways are lacking.

This bleak employment picture contributes to the growing income gap between households containing a person with disability and other Australian households.[5]

Only one in ten Australians in receipt of the Disability Support Pension (DSP) has any income from paid employment, a low proportion by OECD standards. Australia experiences the same paradox as other OECD countries: although people's overall average health status is improving, more people are leaving the workforce and relying on health-related income support.[6]

NDS believes that a number of changes are needed to provide greater incentives for people with disability to take on the risks associated with employment.

- **Access to the Disability Support Pension**

A major barrier to employment for people with disability is the loss of security of being able to receive the DSP if their employment ceases. NDS supports an OECD recommendation that people with disability who cease to be employed should able to easily move back onto the DSP (relaxing further the current benefit suspension rules of two years).[7] This would provide a 'safety net' which would mitigate fears about future financial security.

Related to this issue are the taper rates for DSP and access to a range of concessions and entitlements. Under current arrangements, a single person on the DSP loses 40 per cent of the income they earn over $138 per fortnight. This taper rate, when considered with the often higher living costs experienced by people with disability and reduced access to concessions (see 'Responding to other costs of disability' below) can make employment a financially unattractive option

Recommendations

> That the benefit suspension rules (currently two years) are relaxed for people with disability who enter the workforce.
>
> That the taper rates for the Disability Support Pension are lowered.

- **Improving the mobility allowance**

The Mobility Allowance is important in the lives of many people with disability in employment or training who, because of a disability or medical condition, cannot use public transport without assistance. The higher rate is payable to people who are in receipt of Disability Support Pension, Newstart Allowance or Youth Allowance and are working (or looking for work) of 15 hours or more a week at the minimum wage or above. All others receive a lower rate.

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[5] OECD, Sickness Disability and Work: Breaking the Barriers, volume 2, 2007, page 12
[6] OECD, Ibid, page 11.
[7] OECD, Ibid, p. 23.

The Australian Government created a higher rate of Mobility Allowance as part of its welfare-to-work package, announced in 2005. Initially it proposed restricting the higher rate to people who would no longer be eligible for Disability Support Pension under new stricter rules. The higher rate would help compensate or assist people who, under the new rules, would receive a lower rate of income support (Newstart or Youth Allowance) and be required to work or look for work of 15 hours or more.

However, the Government was persuaded to relax its original position by extending the higher rate of Mobility Allowance to people in receipt of Disability Support Pension, as long as they were either working or looking for work in the open labour market of 15 hours or more. This extension of the higher rate to a group unaffected by the welfare-to-work changes weakened the rationale for maintaining two rates of Mobility Allowance.

NDS believes that maintaining a two-tier Mobility Allowance is inequitable and unjustifiable. The inequity is particularly apparent once it is recognised that the lower rate applies to people who are most likely to be in need of assistance—those with a disability so severe that it prevents them from working 15 hours per week and all people with disability employed in an Australian Disability Enterprise.

Australian Disability Enterprises employ people with a disability (approximately 19,000) who find it difficult to work or maintain employment in the open labour market. Ninety-seven per cent of these supported employees receive the Disability Support Pension and most are paid a productivity-based wage. On average, supported employees in Disability Enterprise receive a significantly lower wage than employees with disability in the open workforce and their capacity to pay for transport to work is less. Australian Disability Enterprises report that some supported employees have to spend over $1000 a year more than their current Mobility Allowance in order to get to work.

Under current arrangements, therefore, the lower the employee's income and the more severe the disability the less likely he or she is to receive the higher rate of Mobility Allowance.

There is no sound justification for continuing to deny access to the higher rate of Mobility Allowance to people who are most likely to be in need of it.

Recommendations

> That the Government remove the lower level of Mobility Allowance and pay all eligible people with disability at the higher rate.
>
> That the Government annually reviews and adjusts the rate of the Mobility Allowance.

- **Responding to other costs of disability**

To encourage people with disability to take up employment opportunities, consideration should be given to allowing them retain some access to concessions and entitlements for a period of time beyond current limitations. These concessions, available to holders of a Pension Concession Card or a Health Care Card, are important contributors to the quality of life of people with disability and some chronic illnesses and include:

- travel concessions;
- housing and rental assistance;
- concessions on rates and other local and state payments;
- reduced rates for telephone and other utilities, including energy payments;
- mortgage relief; and
- pensioner discounts on social participation opportunities.[8]

This issue is particularly important in light of the fact that many people with disability have higher costs of living (such as the costs of medication, aids and equipment, support services and transport) purely as a result of their disability. Research by the Social Policy Research Centre in 2006 attempted to improve the understanding of the link between the presence of disability and poverty by using data from the 1998–99 Household Expenditure Survey. It found:

> …the costs of disability represent a substantial percentage of disposable income, and thus poverty rates are much higher where there is a disability present. Estimates based on the impact of the severity of the restriction associated with the disability are also derived and make a similarly large difference to conventional poverty estimates…The size of the impact of disability on the risk of poverty and actual hardship suggests that action is required to ensure that people with disability no longer have to confront a greatly increased risk of poverty in addition to many other challenges.[9]

This research confirmed the knowledge of many that disability frequently increases the costs of living.[10] Indeed, the Senate Community Affairs References Committee in the report into the *Inquiry into Poverty and Financial Hardship* noted that disability was a close companion of poverty, resulting from a combination of two factors: the increased cost of living and the reduced incomes of those with disability.

People with disability are not, however, a homogenous group and any costs they incur as a result of disability will vary markedly. The type and severity of disability, and possibly whether they are in employment, are factors which will affect the level of additional costs incurred. Some disabilities will not impose additional costs on an individual; some will impose moderate additional costs; and some will impose very substantial additional costs. A means of factoring this differential cost into the financial support provided to many people with disability is warranted.

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[8] Human Rights and Equal Opportunity Commission 2005, *Workability: People with disability in the open workplace, Interim Report of the National Inquiry into employment and disability*, HREOC, Canberra.
[9] Saunders, Peter 2006, *The costs of disability and the incidence of poverty*, Social Policy Research Centre, Sydney, abstract.
[10] See attached list, Selected References: Cost of disability

Further research is required to adequately understand this issue and to respond to it with an appropriately structured allowance.

Job seekers with disability also often face barriers to employment which extend beyond the workplace: a lack of in-home support to prepare for work each day or a lack of accessible transport, for example. Although the responsibility for non-employment support services lies principally with State and Territory governments, their availability affects employment. Taxation concessions for disability service organisations providing this support ultimately assist people with disability find and maintain employment.

Recommendations

That the concessions available to holders of the Pension Concession Card and Health Care Card be retained.

That greater access be allowed to concessions and entitlements for people with disability and some chronic illnesses who enter the workforce.

That the Government acknowledge the additional costs often associated with disability by commissioning research to understand its differential impacts and implementing an allowance (possibly with varying levels) as soon as is practicable. Consideration of the additional non-discretionary costs of workforce participation should be included.

5.2 As the SG system matures, it will become a greater part of an employee's retirement income. What are the implications for individuals partially or fully excluded from the mature SG system (the self-employed, individuals with broken work patterns such as carers, women and migrants), and how can the retirement income system best accommodate these groups?

Many people with disability are not accumulating superannuation savings, or if they are, may be accumulating very little. On retirement they will be reliant on an aged pension to fund their living expenses.

When the Superannuation Guarantee system matures, the Australian Government must ensure that people currently excluded from it are not further marginalised or disadvantaged. The rate of an aged pension must provide for a reasonable and decent life.

Recommendation

That the rate of an aged pension continues to be regularly adjusted to a level that is adequate to provide a decent life for those who have not been able to fund their own retirement.

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About National Disability Services

National Disability Services is the peak industry body for non-government disability services. Its purpose is to promote and advance services for people with disability. Its Australia-wide membership includes more than 650 not-for-profit organisations, which support people with all forms of disability. Its members collectively provide the full range of disability services—from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.