

Dr Ken Henry
Chair - Australia's Future Tax System
AFTS Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

29 April 2009

Dear Dr Henry

**Re: Australia's Future Tax System – Review Section Seven:
Non Profit Organisations and appropriate tax treatments.**

I am writing with concern about:

The ineligibility of many non-profit organisations (particularly Cultural and Collecting Institutions) for FBT exemption under the Tax Concession Charity (TCC) status.

The definition of “charitable purpose” is unclear. The basis for the modern law of charity is Pemsel’s Case which in 1891 established the four “heads” of charity. They are:

- relief of poverty;
- advancement of education;
- advancement of religion; and
- other purposes seen as beneficial to the community which do not fit into the first three categories. Charitable purposes must also be for the public interest¹

It is then reasonable to assume that organisations that both educate and benefit the community such as Cultural organisations have “charitable purpose”. The current exclusion of these organisations as charitable under the taxation system has the following effects:

1. Lack of staff – there is a skills gap of professional fundraising staff when recruiting for Cultural Organisations (particularly in the smaller states such as WA). Generic fundraising competitors such as Hospital Foundations can offer significantly more attractive packages due to their FBT status. In a retracting marketplace in fundraising generally, all non profits need to be on an equal footing to recruit the best available candidates.
2. Attracting funds from established Philanthropic Trusts and Foundations - many of these are managed by trustee companies (such as Perpetual and Trust Company) who insist on Tax Concession Charity status from applicants. Some ancillary funds attached to Government such as cultural and emergency services etc are therefore excluded.

¹ PilchConnect submission 2009 Commonwealth Senate – Henry Tax Inquiry

The solution:

Broaden the FBT exemption criteria to all fundraising entities (including those attached to Government and Ancillary Funds) to be eligible for FBT exemption status (under Tax Concession Charity) which will have the following effect:

- I. Increased income from Philanthropic Trusts and Foundations
- II. Recruitment attractiveness due to the ability to salary package
- III. Savings to the non profit organisations and meeting the expectation of donors to keep costs to a minimum. i.e.; total staff packages can be reduced by packaging thus reducing employment costs.

I look forward to the results of your review and welcome the opportunity to discuss the issues at your convenience,
Yours sincerely,



Bronwyn Lewis
Executive Officer