

14 February 2024

Philanthropy Inquiry
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Via email: philanthropy@pc.gov.au

Website: <https://www.pc.gov.au/inquiries/current/philanthropy/make-submission#lodge>

Dear Commissioners

Consultation: Productivity Commission's Future foundations for giving draft report

Chartered Accountants Australia and New Zealand (CA ANZ) and CPA Australia represent over 300,000 professional accountants who work in diverse roles across public practice, business, government and academia throughout Australia, New Zealand and internationally. We make this submission on behalf of our members and in the public interest.

We are strong supporters of the not-for-profit (NFP) sector and many of our members are involved with the sector as advisors, auditors, employees and volunteers. We support the Inquiry's objective to analyse motivations for philanthropic giving in Australia and to identify opportunities to grow it further, in the context of the Australian Government's goal to double giving by 2030. We therefore appreciate the substantial effort that has already gone into this inquiry and the opportunity to respond to the draft report.

In this submission, we focus on selected draft recommendations and information requests of the Inquiry's draft report. Our submission is informed by members and stakeholders involved in Australia's NFP sector.

We acknowledge efforts by the Productivity Commission through this consultation to supplement existing data on the NFP sector and philanthropic giving. Such additional data should support the Commission's impact analysis and reduce the risk of unintended consequences. The Commission should consider releasing this additional data before issuing its final report, as it could have a bearing on stakeholder recommendations. We raised issues on data quality in our earlier [joint submission](#) to the Inquiry.

To improve data on the sector longer term, we suggest the Commission look for opportunities to collate and publicise information already collected by various regulators. Such streamlining should avoid imposing unnecessary additional reporting obligations on the sector.

Our detailed responses to the draft report are provided in the **Attachment**.

Should you have any questions on this submission or wish to discuss them further, please contact either Susan Franks (CA ANZ) at Susan.Franks@charteredaccountantsanz.com or Tiffany Tan at tiffany.tan@cpaaustralia.com.au

Yours sincerely

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Attachment

Responses to selected draft recommendations and information requests

Information request 4.1: Data on giving that is not tax deductible

The possible reasons why people choose not to claim a tax deduction for giving if they have taxable income and the donations are eligible for a tax deduction include:

- the donor has not retained evidence of the donation (such as a receipt), or such evidence was never given
- the donor has received a benefit for their contribution and the value of the benefit exceeds the threshold (or the taxpayer or their tax agent cannot determine if the value exceeds the threshold)
- over the course of the year, donors can simply forget what donations they have made
- the donor may believe the recipient does not have deductible gift recipient (DGR) status or cannot determine if it has DGR status
- donors may be confused over which gifts or donations are deductible and which are not
- the effort required to make the claim may not match the financial benefit from the deduction
- they choose not to claim a deduction.

Draft recommendation 4.1: \$2 Giving threshold

We support this draft recommendation in principle.

In this digital age, there is no longer a need for a minimum level of donation and so we support in principle this recommendation. Whether such a recommendation will make a practical difference will depend upon the impact of substantiation and anti-avoidance requirements. Discussions with the Australian Taxation Office (ATO) about how they would administer such a proposal could help the formulation of this recommendation in greater detail.

Information request 4.2: Government policies to support giving

How would donors likely change their giving behaviour under different types of tax incentives, such as a tax credit, and what would drive those changes?

To assess the effectiveness of different tax incentives, we recommend the Commission release suggested details of such incentives. This will allow a detailed assessment of the impact each incentive should have on giving. Modelling of each incentive should also consider the impact on tax revenue and giving by taxable income decile.

In relation to tax credits (offsets), the impact on giving depends on the design of the offset. If the offset is not capped, and is fully refundable, it is likely to encourage an increase in giving. This is because the personal value to the taxpayer of such an offset (a reduction in tax payable) is significantly greater than a tax deduction (a reduction in taxable income). Further, as it would be fully refundable, there would be no wastage if the tax credit exceeds the tax payable (the taxpayer would receive a tax refund for the excess credits). However, such design features would come at a considerable cost.

If the offset is capped to a certain percentage of every dollar donated and is non-refundable (as is the case in [New Zealand](#)), it may as the draft report states, encourage more taxpayers to give but cut overall giving as it reduces the incentives for higher income earners to give. This assumes the cap will be set at a flat rate that is lower than the highest marginal tax rate as is the case in New Zealand. Capping the tax offset could add complexity to the tax system.

Matched giving by the government (assuming it replaces the current tax deduction) may also boost giving by certain classes of donors. For example, those who don't claim a tax deduction because they don't have taxable income that is over the threshold for taxation, such as retirees. It may also encourage more corporate giving (assuming the matching applies equally to all donations). However, as highlighted in the draft report, it may discourage individual taxpayers from giving as the personal benefit of the deduction is removed.

Matched grants could increase the compliance burden on charities as it is assumed the charity would need to apply to the government to receive the matched contribution. If the matched giving is limited to donations from certain types of entities (for example, Australian individual taxpayers) and only applies to monetary donations, it would further add to the compliance burden on charities.

We would be happy to work with the Commission to design alternative policy options for further investigation and modelling.

Draft recommendation 6.1: Reforming the deductible gift recipient (DGR) system

We support this draft recommendation in principle; with more analysis of the impacts required.

In our [joint submission](#) on the Philanthropy Inquiry – Review of Philanthropy, we expressed support for further refinement of the DGR framework with the aim to both alleviate the administrative burden on NFPs and to strengthen the registration, reporting and regulatory environment. Therefore, we support in principle, the creation of a simpler, refocused DGR regime using the principles outlined in Recommendation 6.1 and the charity subtype classifications set out in the Australian *Charities and Not-for-profits Commission Act 2012 (Cth)* (ACNC Act).

However, we recommend that the activities listed for exclusion in the draft recommendation be subject to further consultation and research. In particular, the Commission should consider what impact such exclusions will have on equality of access to education and education outcomes.

In researching what impacts (intentional and unintentional) such exclusions may have, we recommend the Commission engages in further consultation before finalising its recommendation.

Information request 6.2: Reporting obligations for entities that have DGR status

We do not support the alteration of reporting obligations on DGR recipients at this time.

We understand the value of better-quality data to policy makers and others, however the current DGR system remains complex and the reporting burden on the entire NFP sector remains onerous, fragmented, and inconsistent. Any proposals to expand DGR status would increase the number of charities required to report from 25,000 to between 30,000 and 40,000. Since most of these smaller charitable entities are resources constrained and rely heavily on volunteers for meeting the day-to-day operating and reporting requirements, we believe that the benefits of imposing additional requirements on all of them will significantly outweigh the value obtained from that additional information.

As an alternative, we suggest that the Commission look for opportunities to collate and publicise information already collected by various regulators. Such streamlining should improve data quality without imposing unnecessary reporting obligations on the sector.

Draft recommendation 7.1: A more consistent and transparent approach for basic religious charities

We support this draft recommendation in principle.

We agree that the need for greater transparency and visibility over the NFP sector's operations and the need for some accountability for the government grants and tax concessions afforded to them calls into question the scale of the exemptions currently provided to basic religious charities. However, we also recognise that certain portions of this NFP sector already have stringent governance and accountability requirements to their ultimate governing bodies and duplicating these obligations will divert resources and time away from essential charitable and philanthropic projects that benefit many Australians.

We therefore recommend that before finalising this recommendation, the Commission ensures that the desire for more comprehensive information about the sector, and the implementation of essential accountability does not impose unnecessary duplicative obligations.

Draft recommendation 7.3: Increasing certainty about ACNC regulation

We support this draft recommendation.

Giving the ACNC the power to issue binding rulings relating to the interpretation and administration of the *ACNC Act* would be a positive development for the ACNC and regulated entities. Given our mixed experience with the ATO's rulings system, it is essential for the Commission to note in its final report that the funding for the ACNC would need to be increased for this reform to be a success – that is, the ACNC issuing quality rulings in a timely manner.

Draft recommendation 7.4: Creation of a national charities' regulators forum

We support this draft recommendation.

Establishing a national charities regulator forum should be valuable in facilitating improved regulatory cooperation in this sector. As the ACNC demonstrated with its work in reporting reform, the sector stands to benefit considerably when various regulators work together on matters of common interest and share information. This can result in agreements that lead to common legislative outcomes in all jurisdictions.

Differences in legislative approaches remain a frustration for the sector. For example, we continue to urge governments to deliver streamlined, simplified and consistent fundraising regulation across Australia.

Draft recommendation 7.5: Explicitly consider the effects on volunteers when designing policies and programs

We support this draft recommendation.

In an environment where the Australian economy faces skills shortages and many NFPs are experiencing difficulties finding volunteers, it is important that all levels of government consider how their policies and programs impact volunteers and volunteering. For example, volunteers usually volunteer to assist an NFP meet its purpose, not to be tied up in administrative and compliance work.

Draft recommendation 8.1: Enabling distributions of funds to be smoothed over three years.

We support this draft recommendation.

We consider that allowing distribution rates to be smoothed over three years is a sensible measure. It provides flexibility to funds in circumstances where the natural investment cycle may constrain the ability to make annual distributions. Mandatory minimum drawdowns have the potential to threaten the liquidity of funds which are set up for longer terms, particularly ones intended to run in perpetuity.

Information request 8.4: Making bequests through superannuation easier

If the government wishes to encourage philanthropy, then there is merit in allowing bequests directly from a deceased's superannuation balance to deductible gift recipients, public benevolent institutions or private/public ancillary funds.

The ability to make such bequests directly from a superannuation fund would reduce compliance and transaction costs for those who would like to make such donations. Such a change would remove the need to distribute superannuation proceeds to an estate and then the payment of the bequest to a philanthropic recipient. It would also be simpler, and the transaction could be completed in a much quicker timeframe than the current approach.

We do not consider the tax concession issue raised in the draft report to be significant. Our preference would be for the *taxable component* of any such payments to be allowed tax-free.

However, such a change would necessitate adjustments to the *Superannuation Industry (Supervision) Act 1993* and its regulations – in particular the sole purpose test, death benefit nomination processes and designating charities as an additional class of death benefit dependants. The *Income Tax Assessment Act 1997* would also need to be amended. It will therefore be important to identify and justify the changes needed to the existing policy settings.

Draft recommendations 9.1 and 9.2: Doing more with data.

We support draft recommendations 9.1 and 9.2 in principle.

Implementing these recommendations will ensure that the data currently being collected on NFPs by various regulators is made more widely available.

In deciding what “additional” information should be collected from the sector, such as that proposed from ancillary fund “sub funds”, regulators should show such data cannot be located from an existing source.

Draft recommendation 9.3: Enhanced disclosure and reporting of corporate giving.

We do not support this recommendation.

We understand the value of better-quality data to policy makers and others, however requiring listed companies to disclose donations (in time, goods and money) to deductible gift recipients in their annual report donations will be complex. The costs of adding this information to already voluminous reports will outweigh the benefits such information will provide to stakeholders.

We are not certain what value requiring listed companies to report each individual donation of money and assets to DGRs in their tax return will bring. For statistical reporting purposes, the ATO only requires aggregated data not line-item data.

Information request 10.1 and 10.2: Supporting charities to engage with different sources of philanthropy and accessing professional advice on philanthropy

Our observation is that smaller charities often find it more challenging to access philanthropy. This is due primarily to them not having the necessary people (employees and/or volunteers), skills and resources.

If the government is to achieve its goal of doubling philanthropy by 2030, it should consider measures that help smaller charities build their capability and capacity to access donors and deliver their services and goods.

One example of a possible measure that can assist smaller charities build their capabilities and hence increase their probability of accessing philanthropy is the Victorian Government's former [Small Business Specialist Advice Pathways Program](#). This provided small businesses with access to a grant they could use to access advice from their professional adviser to inform business decisions.

It is our experience that one of the best, fastest and most cost-effective ways for small businesses and NFPs to build capability is to seek advice from those who have the knowledge, skills and experience – their existing professional advisers.

Expanding business advisory services provided by governments or their contractors to charities is a sub-optimal solution. Such services only reach a small proportion of businesses and we anticipate it will also only reach a small number of charities.

For small businesses, they are overwhelmingly more likely to seek advice from a professional adviser, especially accountants. For example, CPA Australia's Asia-Pacific Small Business Survey found that 49 per cent of Australian small businesses received advice from an accountant or business consultant in 2023, compared to just 7 per cent who received advice from the government. We expect similar results for smaller charities.

Our observation is donors are more willing to give to well-run and transparent charities. Access to professional advice can assist smaller charities to improve their operations and disclosures.

The performance of smaller charities can also be improved by helping them build their capability and capacity to choose, buy, implement and leverage technologies that can help them meet their objectives. With many having limited resources, government support is necessary to drive this. We suggest that the Commission consider financial incentives governments can deliver that encourage smaller charities to invest in selected technologies, such as innovative giving vehicles.

One example of a technology support program that could be adapted for smaller charities is the Victorian Government's former [Small Business Digital Adaptation Program](#). This program provided a \$1,200 rebate to assist small businesses buy a range of pre-approved technologies.

We also suggest the Commission look at whether access to the federal government's [Digital Solutions – Australian Small Business Advisory Services \(ASBAS\)](#) program should be expanded to small charities and NFPs. It should however be noted that the ASBAS program by itself is not of sufficient scale to make a major impact on improving the digital capabilities of smaller charities.

We also note that recent government programs to improve the digital uptake amongst small-to-medium enterprises, especially the [Small business technology investment boost](#) were tax incentives assessable only to small businesses and hence charities were not able to access it.