



14 December 2012

Manager
Charities Unit
Indirect, Philanthropy and Resource Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir / Madam,

RE: Tax Concessions for the Not-For-Profit Sector Discussion Paper

The purpose of this submission is to provide Community Employers WA's (CEWA) comments on the Not-for-profit Sector Tax Concession Working Group discussion paper.

CEWA is a registered Employer Organisation with the Industrial Relations Commission of Western Australia, and represents non-government, not-for-profit employers in the community services sector of Western Australia. CEWA now has 118 members comprising many of the largest and smaller Community Sector employers in WA, and continues to grow in numbers and influence.

Overarching Comments:

CEWA's basis for all responses on the questions posed in the discussion paper is that with any changes, the **core principle that, the existing essential taxation arrangements for Public Benevolent Institutions, at an absolute minimum, be maintained.** CEWA's members are very focused on maximising their individual organisation's limited financial resources for the benefit of the Community, and the sustainability of services going forward. This can only be achieved if the current base level is retained and / or improved.

CEWA would like to table our disappointment that the Working Group has taken over 8 months to put the paper together and yet **only provided the Community Sector 6 weeks to respond**, particularly in the lead up to the Christmas Season. This does not accord with the terms of reference for the Working Group where it was required to "consult widely" with the sector. We would recommend that in future, a more reasonable consultation period be set at a minimum of 12 weeks.

CEWA also finds it unrealistic for the Community Sector to be expected to provide the Working Group with informed commentary on “offsetting savings for any proposals that would have a budget cost”. The **Working Group has not provided a meaningful financial analysis of the potential changes** or given any meaningful commentary on the implications to existing Community sector organisations and the delivery of services. Furthermore, it is not the Sector’s responsibility to try and find offsetting savings for the government, nor to enter into an analysis on trading off costs and benefits.

Consultation Questions:

Chapter 1 – Income Tax Exemption and Refundable Franking Credits

A fundamental requirement to support meaningful consideration of the issues raised in this paper is for a clear definition of a charity to be developed. Whilst we understand and support the broad commentary provided, to ensure consistency and simplicity of approach, it is essential that the uncertainty as to the definition is resolved.

On the basis that the core principle of ‘no disadvantage’ is maintained, CEWA would be supportive of extending the eligibility for exemption from income tax beyond the current beneficiaries whilst keeping the public benefit test as a key requirement. However, if concessions provided to the existing beneficiaries in the Sector are reduced through a re-distribution by the Government, CEWA would not be supportive of extending eligibility. Under that scenario, it would be inevitable that some charitable services and support currently provided to the Community would not continue. Many NFP’s are operating at or below a break even and often due to limited financial resources, find it difficult to attract, retain and reward staff. Indeed, staff turnover in the sector has been estimated at 23% per annum against generally accepted levels of 14-20%. At this preliminary stage given the limited information available, it is difficult to ascertain which services would be discontinued, however it is generally accepted that there is no capacity in the Sector to absorb any reduction or reallocation of tax support.

In relation to refunds on Franking Credits, this is not a significant area for the vast majority of CEWA members as most are focused on ensuring their viability and continuity of service provision. Without more information being provided, such as how many and what type of organisations benefit from these franking credits and at what levels, it is difficult to add further commentary. Given the breadth and growth of non-charitable sector, as suggested in the discussion paper, it may be appropriate for an endorsement framework to be established for new non-charitable organisations who are seeking income tax exemption, however the cost and implications of this would also need to be analysed before such a step is implemented.

Chapter 2 – Deductible Gift Recipients

The Deductible Gift Recipient tax concession continues to be a key component in attracting donations to Community Sector organisations. Many charities rely on donations and bequests to maintain the services and support provided to the community and in turn, many donors rely on the taxation benefits provided to them in making such a donation. **CEWA’s position is that the DGR status currently in place must at a minimum be maintained.** Key risks of extending the DGR Status to all PBI’s include the negative impact on current DGR’s fundraising of changing the current

equilibrium, and the increased compliance costs for the Government in approving and monitoring a broader DGR base. The concept of establishing DGR endorsement conditions to limit the scope of activities has potential merit, however may still create some administrative complexity.

One of the overriding tests for any changes to the essential taxation arrangements for PBI's, should be, 'does it reduce the administrative burden and red tape placed on the sector'. If it is more complex to administer or requires regular rulings, the system will not ultimately be beneficial to the sector and will run the risk of either non-compliance or avoidance. If the Community sector is to maximise the support provided to people in need, the reporting and controls mechanisms must meet the principles of simplicity and effectiveness. The commentary provided in the discussion paper highlights the risks of varying the current tax incentives. If for example the tax deductibility on testamentary gifts was changed to be effective at the time a Will is prepared rather than at the time of death, this could create a new level of complexity for people who amend their Will, and potentially the Community Sector who may have a risk to manage in terms of the ownership of the testamentary gift. This added level of monitoring and reporting would come at a cost and may be difficult to track – and would be yet another level of red tape and complexity for both the Government and the Community Sector.

CEWA is not supportive of the allocation of \$25 million and ongoing costs to establish a donations clearing house. It is generally believed that donors to a charity are aware of the services that the charity provides and to simply establish a centralised clearing house, is unlikely to increase the level of donations, particularly to small charities. Indeed, some donors may be concerned that the funds are going to and being sent to the government, and may reassess where they donations are allocated. Whilst it may marginally lower the cost of processing donations, this would be minimal at best and Community Sector organisations have expressed concern at the loss of control and 'line of sight' they would have to tracking and monitoring donations. An example of this may be in specific fundraising campaigns where the charity may seek to track donations towards a certain project or for a defined time period. The commoditisation of a collection process by the ACNC would make this more difficult.

The concept of workplace giving has been in place for many years, with some organisations supporting matching type programmes and other initiatives. The key benefits of such arrangements include that they are simple to establish and monitor and provide a regular source of income for charities. In other countries around the world, and in particular in the United States, there is a clear culture of workplace giving and United Way is the best known organisation responsible for supporting this initiative. **CEWA is supportive of the government exploring ways to further promote workplace giving** – be it through increased marketing, through the potential for some small additional recognition for organisations who support workplace giving – such as an award or a simple competition, or through a modest incentive initiative.

CEWA is not supportive of increasing the threshold for deductible gifts. Whilst we understand the arguments that it may simplify administration or encourage larger individual donations, it also runs the risk of smaller donors forming a view that their donation is not as valued. The burden of accounting for donations is limited, particularly with the growth of online automated processing and receipting, and the need for every dollar donated is extremely high. We see limited upside in changing this and a high likelihood of negative consequences.

Chapter 3 – Fringe Benefits Tax Concessions

Recent analysis undertaken by CEWA highlights an average 30% salary differential between a Public Service employee and a Community Sector employee in WA – inclusive of the essential FBT taxation arrangements. In a tight labour market, such as being experienced in Western Australia and with the growth in demand for the services provided by the Community sector and a high cost of living, it is imperative that employers are supported in their efforts to attract and retain employees. The current Fringe Benefits regime provides critical support to Community sector organisations who are generally unable to fully compete with the public and private sector in terms of matching salaries.

It is our understanding that the FBT concession cap of \$30,000 has never been increased since it was introduced over 10 years ago. Over this time, the value of the FBT benefit has diminished significantly and accordingly, **CEWA would recommend that indexation on the FBT cap at least at the CPI rate and be back dated to the time the concession cap introduced**, to address this issue.

As noted in the discussion paper, many Community sector organisations voluntarily limit the quantum of ancillary benefits which can be claimed by employees. Indeed with the majority of employees, their salaries are not at the level where they can avail of more than minimal benefits. **CEWA is not supportive of bringing the meal entertainment and associated benefits into the existing caps.** The benefit this provides to employees is an important differentiator.

For the few employees in the sector with higher disposable incomes, the slightly higher benefit they receive would again only make their total remuneration more aligned to what their peers would receive in other sectors. If the Community Sector is to continue to attract high quality staff to manage and lead these increasingly complex and growing charities, it is imperative that they are appropriately rewarded.

CEWA is supportive of the approach to limit the ability of employees to claim the essential FBT taxation arrangements from multiple employers. The simplest way would be to restrict the claim to only one employer at a time and only for the allowable annual concession, although we do note that this will create an administrative burden when an employee moves from one employer to another – it will need to be clarified as to who will be responsible for tracking this and how. Many employees use external salary packaging providers in the current market, so they may be well placed to track such changes, although this won't apply for all employees in the sector. Additionally, if there is a reworking of the FBT taxation arrangements as anecdotally indicated, the Government should look at how this can be stopped, without negatively impacting on the sector more broadly.

CEWA is not supportive of the phasing out of FBT taxation arrangements and replacing them with direct government funding. The risk of changes to government funding are material and could have major consequences to the sustainability of organisations and the services they provide. Additionally it would increase compliance costs which in turn will impact the benefits that can be passed on to the employee.

Chapter 4 – Goods and Services Tax Concessions

The current GST taxation arrangements and reporting requirements are generally well understood by CEWA members and the administrative burden is reasonably manageable. A principles-based definition of the types of fundraising activities which are input tax reduced may assist with compliance, although this is not considered a major issue.

Chapter 5 – Mutuality, Clubs and Societies

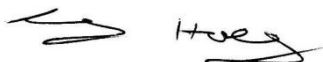
CEWA notes the concerns of the AFTS on the trading activities of Mutuals for income tax purposes. A number of these mutuals' activities are more akin to for profit activities and offer limited public benefit and at times lead to great demand for the services of the Community Sector. If the government is looking to maximise the benefit to the broader community and in particular, to fund the indexation of the essential FBT taxation arrangements as proposed above, it may be appropriate to review the tax free thresholds set for mutuals. The level of this would need to be considered in light of financial information which hasn't been provided in the Discussion Paper.

Conclusion

As stated at the outset, it is imperative that the essential FBT taxation arrangements for PBI's are at an absolute minimum, maintained. The demand for the Sector's services continues to grow and the capacity to respond is constantly challenged in many ways, including the ability to attract and retain staff. Indexation of the FBT taxation arrangements is overdue and could in part be funded by elimination of any perceived roting and by a re-balancing of the benefits received by Mutuals and Clubs.

We look forward to hearing of the progress enhancing the essential FBT taxation arrangements for PBI's and would be pleased to discuss aspects of our submission should you require further information.

Yours sincerely,



Chris Hall
Co Chair



Tony Pietropiccolo AM
Co Chair