

CHARITIES AND OTHER NON-PROFIT ORGANISATIONS

[This Note summarises a number of problems and options for action which have been identified by tax experts, leading community sector organisations and other analysts as needing attention in the Henry report. TaxWatch itself does not express policy views.]

TAX BENEFITS OR DIRECT GRANTS

Some key problems

It might be preferable in principle to remove all or most special tax benefits for particular types of non-profit organisations such as "charities" or "public benevolent institutions" and replace them with direct grants which are likely to be somewhat more transparent and appropriately targeted. The current concessions in relation to GST and Fringe Benefits Tax can distort the choices made by organisations and their staff about use of resources and methods of remuneration, especially in relation to the purchase and use of motor vehicles.

On the other hand, provision of general grants in lieu of these concessions might be inadequate initially and at great risk of subsequent erosion in value by governments under budgetary pressures. It could also make organisations more vulnerable to excessive control and political pressure by governments.

Options for Action

- Replace at least some of the current benefits with increases in support from direct grants.
- Improve the definitions of eligibility for tax benefits in the ways outlined below.

ELIGIBILITY FOR TAX BENEFITS

Some key problems

The current system of eligibility for tax benefits for non-profit organisations is highly unsatisfactory. It is very complex, with a number of different types of benefit and many categories of non-profit organisations which may be eligible for one or more the benefits. The key categories are very vaguely defined and classification of individual organisations is made by the Tax Office, even though that classification can have major impacts outside the field of taxation. Major delays and costs can be incurred in seeking to establish eligibility.

Eligibility for the most substantial benefits is generally based on definitions of "charities" and "public benevolent institutions" which can exclude organisations on unfair or counter-productive grounds. This can occur, for example, if organisations provide assistance for people while they are moving out of poverty rather than only while they remain in it. It can occur if, rather than directly alleviate poverty, organisations undertake research and draw attention to problems of poverty and call for action to prevent or mitigate it. These issues were substantially addressed by the recommendations of the Charitable Definitions Inquiry which were reported to the Commonwealth Government in 2001 but have not been implemented.

Difficult issues of policy and definition arise in relation to "non-profit" organisations which seek to make a profit out of some part of their activities in order to subsidise others. A strict approach can unduly limit the cost-effectiveness of charitable work but a loose approach can allow unfair advantages to commercial enterprises. Some of these problems have been exacerbated by benefits being made available to non-organisations if they are "religious" or provide "education" or a "community service".

Options for Action

- Adopt the three categories of non-profit organisations which were proposed by the Charitable Definitions Inquiry, or the statutory definitions in the United Kingdom.
- Specify eligibility for tax benefits by reference to this classification.
- Establish a Charities Commission to determine individual organisations' classifications, with an appeal to a specialist tribunal.
- In lieu of these measures, clarify eligibility by specific legislation about particular types of organisation (eg, non-profit housing) or activity (eg, advocacy or profit-making activities).

Some TaxWatch advisers on these issues

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