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Manager Philanthropy and Exemptions Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
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Submission: Improving the Integrity of Private Prescribed Funds Discussion Paper

Dear Sir or Madam,

Ethinvest is a Financial Planning practice that assists its clients to organise their financial affairs in an environmentally and socially responsible manner. In this process we are required to address Estate Planning issues with our clients, which in many cases has involved discussions of philanthropy and the advantages of establishing a Private Prescribed Fund.

After careful consideration of how the terms and conditions of a PPF would relate to their individual circumstances, a number of clients have proceeded to establish their own PPF.

We advised our clients that one of the major benefits of establishing a PPF was that it could exist in perpetuity.... That once a reasonable corpus was established, it was possible for the PPF to continue to donate the income year after year and potentially to be donating to the founders charities well after their death. Our clients have also been able to invest the corpus of the PPF in an environmentally and socially responsible manner, creating what they see as a "win - win" scenario for their charitable giving.

Mandated Donations

Your proposal to mandate that PPFs donate 15% of their value each year would undermine the basis for their establishment. Once a founder ceases to contribute to their PPF, it is totally unreasonable to expect that it can earn 15% return per annum. Inevitably these PPFs will distribute capital as well as income to meet this requirement and consequently run out of funds, some within 10 years. These PPFs will then need to be wound up, creating more expense, and leaving very disgruntled PPF Founders in the wake.

We have advised our clients in good faith. If this proposal is enforced retrospectively we believe our "good advice" will have been transformed to "poor advice" with our clients incurring substantial expense without the planned benefits. This, in our view, is clearly unfair.

We ask that you consider "grandfathering" the arrangements for existing PPF's.

With regard to newly established PPFs, we believe that they should be required to donate each year's income (including realised capital gains but excluding unrealised capital gains). This would ensure their long-term existence and benefit to the community.

Privacy Provision

Many Philanthropists wish their charitable giving to be anonymous. You are proposing that if they use a PPF for their charitable giving, then this right be taken away from them. Again, this is clearly unfair, particularly if it is applied retrospectively to existing PPFs, where the members would not even have been given a choice to maintain their anonymity by making alternate arrangements for their giving.

We ask that you do not publish the names and contact details of members of PPFs.

The stated aim for the Government establishing PPFs was to encourage charitable giving. If the proposed changes for PPFs mentioned above are brought into effect, as a Financial Planning Firm, we will not be recommending PPFs to clients. This will not have the desired effect of encouraging charitable giving.

Yours Faithfully,

Trevor Thomas
General Manager