



TAX FORUM

4-5 October 2011

STATEMENT OF REFORM PRIORITIES

PARTICIPANT NAME AND POSITION

LINDA LAVARCH

ORGANISATION

Chair Not-For-Profit Sector Reform Council

STATEMENT OF PRIORITIES

Around two or three pages, please. Please address both of these issues:

1. What are your priority reform directions for the tax and transfer system?

1.1 The Gillard Government is to be congratulated for its Not-For-Profit (NFP) reform agenda. This agenda recognises the significance of the role of the NFP sector in Australian society. The reform agenda also acknowledges that better government process and regulation is required.

1.2 The guiding and principal document for the NFP reform agenda is the **National Compact: Working Together**. The Compact provides the framework for meaningful and innovative ways of working together. Consistent with the National Compact attention needs to be given to reducing red-tape, streamlining reporting and simplifying processes. Further the Sector's right to advocacy irrespective of any funding relationship that might exist needs to be protected.

1.3 Ensuring that the sector is strengthened and enabled by the reform agenda also requires reform of the current tax system that applies to the sector.

1.4 Much of the public support provided to the NFP sector is delivered through tax exemptions and concessions. These exemptions and concessions are an important, stable and longstanding source of financial support for the NFP sector, and assist NFP organisations to further their philanthropic activities and objectives.

1.5 History records that tax exemptions and concessions have been arbitrarily applied in Australia and this approach has brought with it a seemingly complex set of arrangements. However a common theme can be discerned, namely, that bodies providing public benefit should not be taxed.

1.6 Facilitation and growth of the sector is important to the Australian community and the strength of our democracy. The diversity of the NFP sector enriches the fabric of society. It also underpins community resilience. Accordingly the tax system should support the work of the NFP sector not constrict it.

1.7 Australians have a long history of voluntary engagement and generous giving to, and through charities and other NFP organisations. It is appropriate that this engagement and giving also be effectively facilitated.

1.8 Statement of Principles to underpin tax system for NFPs

The classification system for charities and NFPs is unclear and outdated. There is currently no set of



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principles underpinning the legislation. The regulation is confusing at times, contradictory and often unfair. Policy settings need to be clarified. It is submitted that:

- a) A clear statement setting out the principles of tax treatment of NFPs should be developed to clarify and underpin the tax system surrounding NFPs.
- b) Agreement needs to be reached on the overarching principles of the reform agenda. As a starting point it is suggested that the overarching principles could be:-
 - A commitment to strengthening the sector
 - A commitment to fostering innovation within the sector;
 - Ensuring social inclusion;
 - Smarter regulation for the sector that facilitates public benefits not stands in its way;
 - Reducing red tape; and
 - Improving transparency and accountability of both government and the sector
- c) More specifically the statement needs to incorporate:
 - A definition of charities and NFPs for the purposes of tax exemptions, tax concessions and deductible gift recipient (DGR) endorsement so as to provide a rational basis for charity and NFP tax exemptions, concessions and other fiscal initiatives;
 - Recognition that bodies who provide public goods or public benefit are to be supported through tax exemptions, concessions and other fiscal initiatives;
 - A clarification that tax exempt status and tax concessions do not necessarily violate the principles of competitive neutrality;
 - Competitive neutrality should not be used indiscriminately as a rationale for a change in tax arrangements for the NFP sector;
 - Recognition that tax exemptions can sit outside the tax system and do not necessarily equate to lost revenue; and
 - Recognition that tax concessions to charities and NFPs do not necessarily equate to lost revenue.

1.9 System improvements - Simplified system and modernisation of eligibility for exempt status

The list of specifically exempted entities and general categories which are entitled to receive tax exemptions and concessions has grown in an arbitrary manner over time. There has been no coherent public policy underpinning the development of these categories of tax exemptions and of the NFP sector in general. The system of exemptions needs to be simplified and modernised to reflect current community values.

1.10 The Australia's Future Tax System *Report to the Treasurer* (AFTSR) conceded that the system of tax concessions for NFPs is complex and does not fully reflect current community values and social worth of the activities it subsidises.¹

1.11 Harmonisation

States and Territories provide a patchwork of concessions for charities and NFPs ranging from land tax concessions to payroll tax exemptions. While payroll tax exemptions have been largely

¹ (2009) 205



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harmonised it is not unusual for the same organisation to receive different tax concession treatment depending on where they are operating. Harmonisation of concessions would not only provide certainty but reduce compliance costs.

- 1.12 The Productivity Commission in its 2010 research report *Contribution of the Not-For-Profit Sector* found that the jurisdictional differences in the types of NFP tax concessions and their eligibility and endorsement requirements contribute to a complex, inequitable and inconsistent system. Even within systems exemptions to protect existing entitlements and tests that are no longer relevant have resulted in unwarranted complexity.²

1.13 **Need for a simple single application for charities and NFPs**

An application process should be created so that charities and NFPs may apply for all tax concessions in one application.

1.14 **Role of the Australian Charities and Not-for-profits Commission (ACNC)**

- a) The AFTSR recommended in response to recognition of the complexity that the Federal Government should establish a national charities commission – to monitor, regulate and provide advice to all NFPs including PAFs. The Report recommended further that one of the tasks of the Commission should be to streamline NFP tax concessions – including application of gift deductibility and modernising and codifying definition of charity.³
- b) It is noted that the Federal Government is in the process of establishing the Australian Charities and Not-for-profits Commission and it is recommended that its role be expanded to include streamlining NFP tax exemptions and concessions in accordance with the AFTSR recommendations.
- c) Integrity of charitable and NFP status needs to be supported by the ACNC having the power to remove status from rogue or sham operators. Sufficient funds to ensure compliance need to be allocated.

2. How are your proposals financed over the short and longer term?

Simplification of the tax system for charities and NFPs reduces compliance costs for both the sector and for government. This will result in savings.

The government has allocated \$53.6 million over 4 years for the establishment of the ACNC. The budget allocation is sufficient to support the recommendations in this proposal.

Further, recognition has to be given that NFP tax exemptions are often really outside the tax base and therefore cannot be treated as foregone revenue. The distinction between tax expenditure and revenue that falls outside the tax base was explained in the AFTSR.⁴ An example is the mutuality principle in NFP tax arrangements as discussed in the AFTSR⁵ and it is submitted that this distinction equally applies to the tax exempt status of charities and NFPs.

² 163

³ Recommendation 41, Australia's Future Tax System: Report to the Treasurer (2009), 211

⁴ Ibid 731

⁵ Ibid 209



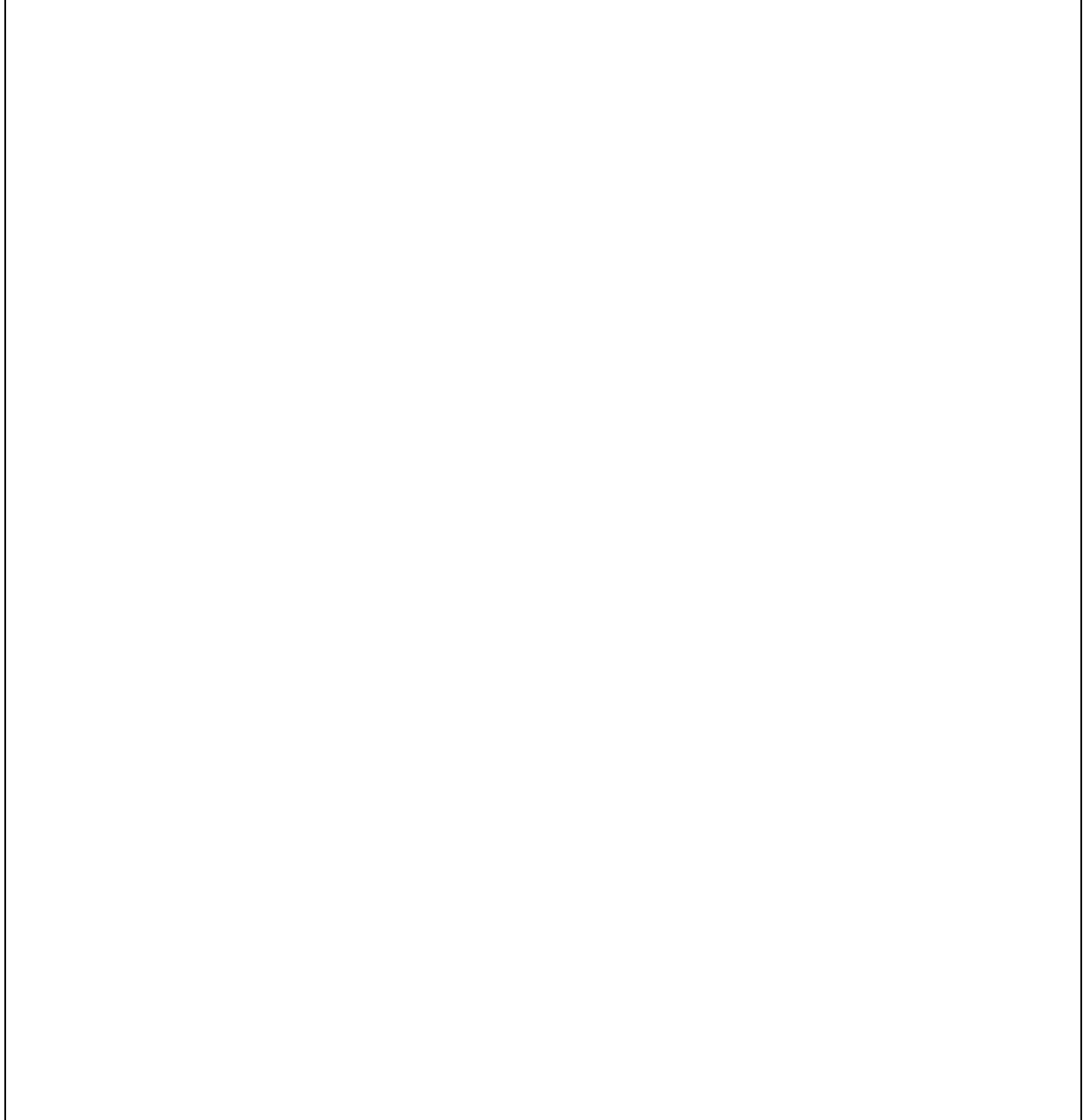
Australian Government



A tax plan for our future
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LIST OF ATTACHMENTS

Feel free to attach supporting papers if you wish. Please list them here.