



AUSTRALIAN CATHOLIC BISHOPS CONFERENCE

General Secretariat

1 June 2015

Tax White Paper Task Force
The Treasury
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Dear Sir/Madam

Tax Discussion Paper

The Australian Catholic Bishops Conference (ACBC) is a permanent institution of the Catholic Church in Australia and the instrumentality used by the Australian Catholic Bishops to act nationally and address issues of national significance.

The Catholic Church contributes in a wide variety of ways across the spectrum of Australian society. As an integral part of its core mission, the Church seeks to assist people experience the fullness of life. It is concerned with all that impacts on human wellbeing. It comprises many thousands of different entities which have different purposes and modes of governance.

The ACBC has a number of comments on the Tax Discussion Paper. In summary:

1. The Church proposes tax policy should be evaluated through the principles of the common good, distributive justice and the preferential option for the poor. These concepts follow a long tradition of thought in the Catholic Church that puts the human person at the centre of the economy.
2. Government focus on workplace participation can neglect the common good by not valuing work that is outside the paid workforce, like parents choosing to stay at home to look after their children. Families are vital to the community and should be supported through the tax system, whether they decide to have two parents in the paid workforce or one.
3. The Church is a part of the not-for-profit (NFP) sector as it comprises entities which are charitable at law, through advancing religion, education, health and aged care and welfare, which are activities undertaken for the public benefit.
4. Although the focus of the Discussion Paper is taxation, an understanding and analysis of the NFP sector will be flawed if it is limited to tax in isolation of other considerations. Viewing the NFP sector in terms of "revenue foregone" overlooks the contribution made by the NFP sector in contributing to the common good. It also fails to balance the savings to

Government through reduced outlays on those services provided more efficiently and effectively by the NFP sector.

5. There have been detailed reviews of the NFP sector, including taxation aspects, in recent years, including the independent Not-for-profit Sector Tax Concession Working Group's 2013 report¹ and the Productivity Commission's 2010 Report.² The conclusions and recommendations in those reports should be referred to understand the rationale for tax concessions to the NFP sector and the reasons why the existing concessions are appropriate for charities like the Church.
6. The Church has consistently advocated certain key principles in reform consultation as follows:
 - The advancement of religion is a well-established and long recognised category of charitable purpose which should continue to be recognised in the law, including the presumption of public benefit.
 - Income tax exemptions, GST concessions and DGR categories currently are appropriately set to support the Church and other charitable entities to contribute to the common good.
 - In general, fringe benefits tax concessions are appropriate and justified to support the sector. Particular concerns about abuse can be addressed in targeted reform, such as the Government's recent Budget announcement about the cap on meal entertainment.
 - Instead of unhelpful and irrelevant arguments about "revenue foregone" and justifications for exemptions and concessions for charities such as the Church, the more important issue is the reduction of red tape to make it easier for charities to pursue their objectives for the public benefit. The costs of compliance for charities is growing and compromising the capacity of charities to achieve their full potential in contributing to society and relieving the burden from Government.

General comments

The ACBC acknowledges the many challenges facing the government in determining the right taxation regime for Australia.

Deciding what is right is a moral issue. It means selecting the relevant values and the appropriate technical solution to achieve those values. Catholic social teaching does not specify technical solutions but it does have a lot to say about values.

The Church proposes a number of principles to help evaluate new tax proposals: the common good, distributive justice and the preferential option for the poor.

Catholic social teaching holds that the common good is underpinned by the promotion and protection of human dignity. What do people need to lead a fully human, dignified life? Implicit in seeking the common good is the desire to serve the poor, the marginalised, the sick and the forgotten in our community.

¹ *Fairer, simpler and more effective tax concessions for the not for profit sector*, May 2013.

² Productivity Commission 2010, *Contribution of the Not-for-Profit Sector*, Research Report, Canberra.

The common good is “the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready access to their own fulfilment ...”³

The role of government is to promote the common good. Government has a special responsibility in this area because it is the only sector that can levy taxes. It has a responsibility to promote the common good by sharing the burdens and benefits of tax fairly.

While government is the sector with the important role of levying taxes because it has a coercive power, it has the disadvantage of not being close to the people it is trying to help. The standard solutions of a centralised government undermine the relationships necessary to improve the common good. Ultimately happiness is achieved in community with others, serving others. The common good is helped by a diversity of small community organisations that have a human scale and encourage relationships. Civil society encourages a sense of solidarity or responsibility for others which is not something that governments can do.

Addressing the common good is therefore a shared responsibility between government, civil society and the private or business sector.

In promoting the common good, governments must raise money to fund the necessary business of the state, with the least possible impact on those people who are the most vulnerable.

Distributive justice recognises that the burdens of the community should be shared based on the ability of people to contribute. This is a difficult aim to achieve as it depends not so much on rates charged but on the final dollar amount of tax paid by each Australian. For example, lower income people spend a larger proportion of their income on essentials, so can be disproportionately affected by a consumption tax unless this is offset with adequate compensation. Families too are likely to spend a bigger proportion of their income on essentials compared to a single person on the same income.

The preferential option for the poor is a closely related idea which says that the greater the needs of people, the greater the responsibility we have to respond to their needs. It needs to take into account the wide range of different circumstances of people.

The three concepts of the common good, distributive justice and the preferential option for the poor follow a long tradition of thought in the Catholic Church that puts the human person at the centre of the economy. Pope Francis reminds us “money must serve, not rule.”⁴ Where the Tax Discussion Paper states that “... steps to boost productivity and encourage higher workforce participation will be critical to driving future economic growth” (Page 1) the ACBC would have liked to see an explicit reference to the wellbeing of all Australians.

³ *Gaudium et Spes*, #26. Pastoral Constitution on the Church in the Modern World, Pope Paul VI, 7 December 1965.

⁴ Apostolic Exhortation, *Evangelii Gaudium*, 24 November 2013, #58.

There is no point to improving economic growth if there is no improvement to the lives of Australians. Improving the lives of Australians goes further than improvements in the number of opportunities for workers, or to economic growth, the national accounts or even to pay packets. All these measures could be driven higher if we all worked 12 hour days in the paid workforce, but the bigger picture - the common good - would be missing. Government documents should reflect that concern.

For example, what is the cost to families and the community if more people spend more time away from home, in the paid workforce? Family time is important, even though it is not measured in the national accounts. Work-life balance is a moral question that must be considered by government and the broader community.

How does tax policy impact on the number of children that families choose to have? Are there more equitable ways to tax single income families, such as income splitting, in cases where one parent stays home to care for children?

The ACBC asks that government policy focus very clearly on improving the common good for each and every Australian. The language of policy must be very clear about the benefits for ordinary Australians, not just for abstract economic measures. The aim of this review of Australia's taxation system should be to have a tax system that further improves the common good.

Chapter 7 – Not-for-profit sector

The point needs to be reinforced at the outset that the NFP sector is a diverse sector. It comprises charitable institutions (such as religious and educational entities), public benevolent institutions (**PBIs**) (such as health and aged care and welfare entities), non-charitable tax exempt entities (eg sporting associations), mutual entities, entities receiving government funding (eg schools) and self-funded entities. There is no single NFP perspective. The Church is part of the subset of NFPs which are charitable and which, by definition, pursue objects and undertake activities for the public benefit.

Particularly in the context of the Church being charitable, of concern to the ACBC is that chapter 7 of the discussion paper seems to be repeating two common mistakes which have infected past reviews.

First, the discussion paper seems to view tax and the NFP/charities sector predominantly through the prism of “revenue foregone”. Viewing the impact of tax concessions for the charities sector principally in terms of cost to the revenue is flawed. There is no accurate measure of the so called “cost” of tax concessions because the measures applied fail to quantify the activities undertaken by charities which save governments from making outlays for similar activities. Therefore, revenue foregone is an elusive and flawed analytic.

Second, the question of whether there is a “competitive advantage” for charities has been considered and dismissed in past reviews. Any suggestion of reform to tax concessions based on “competitive neutrality” is based on a flawed premise, as reviewed and concluded in past reviews, particularly by the Productivity Commission and the Henry Review.

Further to the above points, the discussion of the not-for-profit (NFP) sector reveals a contrast in views between the government sector and the not-for-profit sector. The discussion paper is focused on revenue forgone, with some acknowledgement of the economic benefits of NFP activity. The NFP sector is of course focused on the revenue impact any loss of tax concessions would mean, but its principal focus is on outcomes that are often not based on money. Many of the benefits of this sector cannot be measured in financial terms, so a simple accounting of revenue forgone as compared to benefits to the community is not possible.

There are currently 3,663 entities in the Catholic Church Goods and Services Tax (GST) religious group. This does not reflect all the entities that comprise the Church as in many cases all the schools in a diocese were endorsed as one entity and in other cases entities were endorsed as branches. The Catholic Church comprises parishes, organisations within parishes, dioceses, religious orders, provinces, the church nationally and local entities that are part of the church internationally.

Parishioners provide non tax-deductible contributions (e.g. deposited voluntarily to collections at church services) and tax-deductible contributions (e.g. donations to registered school building funds or other Church sponsored deductible gift recipients). This means that the overall benefit to the community is magnified. Such tax concessions should not be characterised as a loss to government revenue.

Parishioners identify with the community benefit and social capital generated by their local parish and church activities. They are able to observe directly how their contribution is applied locally through their direct involvement in worship and other parish activities. This relationship provides adequate opportunity for accountability and transparency and requires different treatment to the duties to a donor generally. This reinforces the values to the community of the current DGR arrangements.

Tax concessions allow entities in the NFP sector to devote more money to achieving their mission, with more funding certainty, compared to churning money through government tax and transfer systems with all the associated administrative costs.⁵

It should also be taken into account that the subject matter of chapter 7 of the discussion paper has been the focus of several reviews in recent years, most recently in the independent Not-for-profit Sector Tax Concession Working Group's report, "Fairer, simpler and more effective tax concessions for the not for profit sector" (May 2013). The Working Group's report was broadly supportive of the existing tax concessions, with some particular recommendations concerning fringe benefits tax concessions. While the ACBC welcomes the opportunity to make contribution to the discussion paper, it encourages the review team to have regard to the analysis and conclusions in prior, more comprehensive reviews regarding the NFP sector, so that tax is not viewed in isolation.

⁵ Productivity Commission, *Contribution of the Not-for-profit Sector*. January 2010, page 156, 157.
Not-for-Profit Sector Tax Concession Working Group, *Fairer, simpler and more effective tax concessions for the not-for-profit sector*. Final Report, May 2013. Page 3.

Discussion questions

The Church wishes to comment on the discussion questions.

6. What should our individuals income tax system look like and why?

Parents who stay at home are considered to be outside the workforce because they do not receive pay. This overlooks the key role these parents have in the welfare of their families and local communities. Many Australian families rely on one parent for most of their income. This is often because families decide one of two parents should stay at home to care for their children. These families are disadvantaged by the tax system because they do not have access to the two tax free thresholds available to families with the same total income, but two income earners. The Discussion Paper notes this particularly disadvantages people in the income tax system who do not have alternatives like trusts to help them income split (see page 51). The tax system should treat families equally, whatever their decision on how they care for their children.

Families with four or more children represent five percent of Australian families.⁶ These families account for a much larger proportion of all children aged under 18. Given “families with three or more children are more likely to have one parent out of the labour force or working part-time”,⁷ the government should not dismiss the contribution and needs of these single income families or burden them with pressure to participate in the paid workforce.

9. To what extent does taxation affect people’s workforce participation decisions?

Governments have made it clear for many years they wish to increase workforce participation, primarily by encouraging women to join the paid workforce. The tax system should not be used to punish those families that decide they want to make the financial sacrifice to have one parent at home looking after their children. The tax system should at the very least be neutral on the question of family decisions on how they support their children, but preferably it should offer support for the important work of families, even if they do not wish to have two incomes.

Families and the children they raise are important to Australia’s future. Families provide a safe and stable place for children to grow up with their parents. When family relationships fail under the weight of financial or other pressures, the direct cost to the government in terms of extra social services is significant. Governments, recognising the important role of families in socialising and educating future generations of the community, provide some support.

⁶ Weston, R et al, Australian families with children and adolescents. *Australian Family Trends No.5*, July 2013. Figure 2, page 4.

⁷ Wilson, K et al, Parents, the labour force and social security, *Policy Research Paper No.2*, 1999, Page 15.

The recent Intergenerational Report noted the demographic crisis in Australia, saying “the number of people aged between 15 and 64 for every person aged 65 and over [has] fallen from 7.3 people in 1974-75 to an estimated 4.5 people today”.⁸

There is a danger taxation laws focused on increasing labour participation may work as a disincentive to having children. Many mothers decide not to work in the paid workforce or to work shorter hours while their children are young. The Australian Bureau of Statistics noted “in couple families and lone mother families the proportion of mothers in full-time employment increases as the age of the youngest child increases”.⁹

In 2011 almost half of all Australian children were in families where only one parent was in the paid workforce fulltime and the other was not, or where one was fulltime and the other was working part time.¹⁰ This suggests a substantial number of parents value having one parent spending time at home with their children. Governments should support rather than work against that choice.

47. Are the current tax arrangements for the NFP sector appropriate? Why or why not?

From the perspective of the Church as a body comprising charitable entities, the current tax arrangements are appropriate. The rationale for tax concessions for charities including the Church continue to be sound.

Support for income tax exemptions for charities was explained in the comprehensive 2010 Productivity Commission Report:¹¹

“There is a general understanding that tax concessions are granted to support NFPs because they serve the community and their activities provide positive public benefits.”

Similarly, the 2008 Henry Review Report noted:

“Tax concessions are an important and longstanding source of funding for the NFP sector.”¹²

“NFP organisations are often more effective service providers than government or for-profit organisations”¹³

The ACBC would support measures to simplify tax arrangements for the NFP sector in a way that no entity would be worse off after the changes. For the most part, NFP entities serve communities of people who are vulnerable or need assistance and who often do not have the resources to contribute financially for the services provided. Any extra costs mean there will be less money available to support these vulnerable people. Any withdrawal of services by the NFP sector will mean that the Government must increase its expenditure to replace

⁸ 2015 *Intergenerational Report: Australia in 2055*, Commonwealth of Australia, page viii

⁹ Australian Bureau of Statistics, 4442.0 - Family Characteristics, Australia, 2009-10

¹⁰ Weston, R et al (2013), Australian families with children and adolescents. *Australian Family Trends No. 5*, Australian Institute of Family Studies, Melbourne. Page 8.

¹¹ Productivity Commission 2010, *op cit*, Page 156.

¹² *Australia's Future Tax System: Report to the Treasurer* (Henry Review), Part 1, Commonwealth of Australia, 2010. Page 43.

¹³ Henry Review, *op cit*, Part 2, page 206.

the services and, as observed in the Henry Review Report, often the cost of Government providing a service is higher than the cost of the same service provided more efficiently by the NFP sector.

Tax exemptions should continue to apply to charitable entities, including religious entities, based on their accepted public benefit and encouragement of benevolent activities. The rationale for tax exemption for religious entities is the same as the rationale for tax exemption as other charitable bodies – religious entities pursue charitable purposes which, by definition, are for the public benefit.

The ACBC is of the view that the community benefits generated by the current arrangements with fringe benefit taxation and related concessions far outweigh the costs on economic efficiency and fiscal grounds. While some streamlining might be desirable, the Government should ensure that any measures do not diminish the level of concessions available to employees engaged in the delivery of education, health and social services. The reality is that the availability of skilled resources in the NFP sector is under considerable stress. When considering reforms to fringe benefit concessions, it is critical that the Government take no measures that will jeopardise the supply of skilled labour. The ACBC acknowledges that there is a case for including meal and entertainment fringe benefits within a cap, as the Government has proposed in the most recent Budget.

In the interests of achieving horizontal equity, the number of employers an employee has should not be a determining factor in the extent to which eligible employees can avail themselves of FBT concessions. However, government action to address this anomaly should not have adverse consequences for the market for scarce skilled labour in the health and welfare sectors.

The GST concessions applicable to charities include GST-free status for supplies in Education, Health, Aged Care, welfare services, housing and other non-commercial supplies. These are services which are for the public benefit and assist to reduce cost to individuals and families who would otherwise add to the cost of Government provided services at far greater cost to the taxpayer. The GST concessions for charities continue to be appropriate for these reasons.

48. To what extent do the tax arrangements for the NFP sector raise particular concerns about competitive advantage compared to the tax arrangements for for-profit organisations?

The ACBC refers to the extensive study on this point by the Productivity Commission in 2010 and the Henry Review Report and submits that this is not a point for credible further review, at least regarding income tax, DGR or GST.

The 2010 Productivity Commission Report addressed these issues comprehensively and concluded:¹⁴

¹⁴ Productivity Commission 2010, *op cit*, page 197.

“On balance, income tax exemptions are not significantly distortionary as [NFPs] have an incentive to maximise the returns on their commercial activities that they then put towards achieving their community purpose.”

The 2008 Henry Review Report stated the same view:¹⁵

“The NFP income tax concessions do not generally violate the principle of competitive neutrality where NFP organisations operate in commercial markets.”

On the question of Fringe Benefits Tax concessions, withdrawing the FBT exemptions and rebates for all employers would prejudice employers and employees who act appropriately within the policy parameters of the concessions and would unfairly increase cost and/or compromise service delivery. One must also take account of the different commercial circumstances between the sectors, access to capital and the overall contribution to the common good. Under the Government’s proposal from the Budget, concerns about meal entertainment expenditure could be addressed in targeted reform.

49. What, if any, administrative arrangements could be simplified that would result in similar outcomes, but with reduced compliance costs?

Raising the threshold for deductible gifts to \$10 is supported among measures to reduce red tape for the sector and donors. The measure would have greater merit if combined with the introduction of tax offsets in place of tax deductions as the impact on low income earners with limited capacity to give would be reduced.

The ACBC does not have any particular difficulty with the operation of GST– but compliance is complicated. A principle-based definition of the types of fundraising activities that are input taxed to reduce the compliance burden for entities that engage in fundraising is recommended. Given the small amounts of revenue involved, revenue efficiency and regulatory efficiency need to be balanced.

The ACBC supports the Productivity Commission’s comment that “tax concession arrangements could be simplified by ... reducing the number of NFP tax concession categories”,¹⁶ as long as no entity would be worse off after the changes. The complexity of these arrangements add to administrative costs.

The ACBC considers tax ruling TR2015/1 “Income tax: special conditions for various entities whose ordinary and statutory income is exempt” to be unworkable and the legislation behind it should be repealed.

One area which concerns the ACBC is the increasing escalation of compliance costs and special conditions attaching to long standing and uncontroversial categories of tax exempt entities. As an example, the introduction of ‘special conditions’ by the former Government via the *Tax Laws Amendment (2013 Measures No.2) Act 2013* both adds red tape and has no

¹⁵ Henry Review, *op cit*, Part 2, page 209.

¹⁶ Productivity Commission 2010, *op cit*, page 165.

practical effect. The conditions generate uncertainty for both charities and professional advisers.

The ACBC considers that the ATO's views in tax ruling, TR2015/1 "Income tax: special conditions for various entities who's ordinary statutory income is exempt", adds to the confusion. The reforms add cost for no discernible benefit and should be repealed.

50. What, if any, changes could be made to the current tax arrangements for the NFP sector that would enable the sector to deliver benefits to the Australian community more efficiently or effectively?

The Government should consider development of target rates for red tape reduction, including the 'principle of simplicity' and reform of tax concessions, so that they are measurable and transparent and costed to ensure budget-neutral positions for NFP entities.

The Government should work with states and territories to ensure a simplified tax system for charities which is budget neutral and does not lead to adverse fiscal responses by state and territory governments.

The ACBC supports the following recommendations of the Not-for-Profit Sector Tax Concession Working Group:

- Income exempt status should be reserved for those entities that provide a "public benefit", as is the case for charities;
- The tax free threshold for non-exempt NFP entities should be lifted from \$416 to \$10,000 of taxable income, cutting administrative and compliance costs for small entities;
- As the Government has announced on Budget night, there should not be uncapped concessions for salary sacrificed meal entertainment and entertainment facility leasing fringe benefits;
- Any savings from reforms to tax arrangements for the NFP sector should be passed back to the sector to support its work.¹⁷

I would welcome the opportunity to discuss these issues further.

Yours faithfully



Rev Brian Lucas
General Secretary

¹⁷ Not-for-Profit Sector Tax Concession Working Group, *Fairer, simpler and more effective tax concessions for the not-for-profit sector*. Final Report, May 2013. Pages 4, 9, 12.