ACSA response to the "Re:think" Tax discussion paper

June 2015

ACSA CONTACTS

Adj Prof John G Kelly AM, CEO
jkelly@agedcare.org.au 0419 445 238

Heather Witham, Manager, Government Relations and Policy
hwitham@agedcare.org.au 0437 911 276

Tim Dixon, Manager, Public Policy
tdixon@agedcare.org.au 0423 115 637

AGED AND COMMUNITY SERVICES AUSTRALIA
Level 1, 10 Thesiger Court Deakin ACT 2600 (02) 6282 7827 www.agedcare.org.au

ABOUT ACSA

Aged and Community Services Australia (ACSA) is the leading national peak body for aged and community care providers. It represents church, charitable and community-based organisations providing housing, residential care, community care and home support services to older people, younger people with a disability and their carers.

ACSA members provide care and support in metropolitan, regional, rural and remote regions across Australia.

The ACSA Federation is made up of the following members:

- Aged and Community Services Association of NSW & ACT (ACS NSW&ACT)
- Aged and Community Services SA & NT (ACS SA&NT)
- Aged and Community Services Tasmania (ACS Tas)
- Aged and Community Services Western Australia (ACS WA)
- Aged and Community Services Australia - Victoria (ACSA Vic)
- Aged and Community Services Australia - Queensland (ACSA Qld)

Mission-based and other not-for-profit (NFP) aged care organisations are responsible for providing services to those older Australians who are most in need. These organisations are visible and highly accessible in the community and as a result, the public relies on them for service, support and care. The broad scope of services provided by ACSA's membership and the leadership they display gives it unique insights into the challenges and opportunities that come with the ageing of the population.

INTRODUCTION

ACSA's mission based members utilise their tax benefits every day to provide care and support to vulnerable older Australians with significant needs and to invest in service innovation and improvement.

As a result, we recognise the opportunities and challenges posed by the ageing of the population and we welcome this opportunity to contribute to the discussion on tax in Australia. It is essential to maintain tax system that is both equitable and sustainable, while able to support the needs of the population into the future.

This submission draws attention to the significant contribution of not-for-profit (NFP) organisations generally and church, charitable and community aged care organisations in particular, highlights the importance of the tax concessions they receive and considers some areas where current arrangements could be improved.

NOT-FOR-PROFIT SECTOR

<u>The appropriateness of the current tax arrangements for the NFP sector</u>

The Tax Discussion Paper rightly notes that NFP organisations make an "important and intrinsic" contribution to Australian life (page 121). It is important to acknowledge that as well as providing essential services NFPs also contribute greatly to public and community life in Australia, in a way that very few, if any, other organisations are able or inclined to replicate.

As the Productivity Commission noted in its 2010 report on the 'Contribution of the Not-For-Profit Sector', the role of the NFP sector in "promoting social cohesion, raising civic awareness, and facilitating participation in community activities" produce economic as well as social benefits,[1] which have either a direct or flow-on impact on all Australians. It is precisely because of this unique contribution that there has been such strong agreement about the benefits of granting tax concessions to the sector.

This approach – which includes a broad range of concessions and exemptions at all levels of government (page 123 of the Tax Discussion paper)[2] – is both valid and necessary because NFP organisations are uniquely placed to deliver social benefits that government and for-profit organisations are not able to contribute.

A prime example of the benefits of this approach is the arrangement that enables staff from not-for-profit organisations to 'claim' expenses up to a capped amount each fringe benefit tax (FBT) year. In effect, these concessions enable employees of non-profit organisations to increase the income of their employees by paying particular expenses using pre-tax dollars. This in turn is essential to the recruitment and retention strategies of these organisations that enable them to provide the vital services in which they excel.

---

[1] Productivity Commission (2010). *Contribution of the Not For Profit Sector: Productivity Commission Research Report*, Commonwealth of Australia, 2.

[2] *At the state and local government level, many charitable institutions are exempt from state and local government taxes.147 Exemptions differ across jurisdictions, but may be available for taxes, including municipal rates, payroll tax, stamp duty, motor vehicle registration and land tax. At the Commonwealth level, these tax concessions vary according to the type of entity as well as the activities that the NFP undertakes. These tax concessions include income tax exemption; a higher GST registration threshold; the ability to make supplies GST-free in certain circumstances; capped exemptions from (or rebates of) fringe benefits tax (FBT); and the ability to receive tax deductible gifts.*

Competitive neutrality

While NFP aged care providers receive a number of beneficial tax arrangements that are not available to for-profit aged care providers, ACSA does not believe that this constitutes a competitive advantage for these providers.

One of the main reasons for this is that NFP aged care providers cater and target their services to different service users and client groups than their for-profit counterparts. In the aged care sector, it is the NFPs that have a particular focus on older people who face disadvantage or find themselves in vulnerable situations. For decades, NFP aged care providers have lived up to their missions by supporting those most in need. According to the Aged Care Financing Authority, it is mostly NFP organisations that make up the third of aged care homes which always have a proportion of supported residents (those with the lowest income and assets) exceeding 40 per cent, while it is mostly for-profits that account for the third of homes that never meet this benchmark.[3] This trend is reflected in the data collected by ACSA's members. A report compiled by Deloitte Access Economics on behalf of a large Queensland-based member shows that almost three quarters (73 per cent) of its aged care facilities are in 60 per cent of the state's most disadvantaged locations.[4]

It is not only in residential aged care that NFP organisations cater specifically to those who are financially and socially disadvantaged. Low cost housing options are provided in many of the retirement villages, independent living and housing services operated by our members, while community providers reduce or waive client contributions for home care packages and other community aged care services, where warranted. Aged care services are also much more likely to be provided by NFP organisations in the less profitable areas outside metropolitan and regional centres, where it is widely recognised that there are considerable challenges in attracting and retaining appropriately qualified staff.[5] These mission based organisations often forgo significant levels of income in order to support various sections of the community who are unable to support themselves financially to the same degree as other consumers.

In these circumstances, tax concessions and exemptions provide a means of ensuring the ongoing provision of vital services for those in need.

While NFP aged care providers deliver efficient and innovative services to a diverse range of clients and residents, the business model they use means they are unable to draw on the financing arrangements on offer to for-profit providers. The lack of access to equity funding limits their financing options to operating cash flow and debt financing. This places the sector at a potential competitive disadvantage relative to the for-profit sector, and should be taken into account when considering an equitable taxation treatment of the two sectors.

The tax concessions granted to NFP aged care providers, rather than being seen as a competitive advantage over for-profit aged care providers, should be viewed as a community benefit. Instead of generating profit for individuals or corporations, NFP aged care organisations generate significant social returns for the communities in which they operate and are supported to do so by the tax arrangements they receive.

---

[3] Aged Care Financing Authority (2014). 'Report on the Funding and Financing of the Aged Care Industry', ACFA, 85, 86.

[4] http://unitingcareqld.com.au/docs/default-source/UnitingCare-Queensland/economic-and-social-value-of-unitingcare-queensland-2014--executive-summary?sfvrsn=0

[5] Aged Care Financing Authority (2014). 'Report on the Funding and Financing of the Aged Care Industry', ACFA, 83.

It is important to ensure that in promoting a contestable and competitive aged care market, the crucial role played by NFP organisations is not forgotten. The value of NFP providers, particularly in the area of human services, was continually recognised in the final report of the recent Competition Policy Review. While advocating a diversity of human service providers, the report urged that any move to enhance competition must not come at the expense of "the important contribution made by the not-for-profit sector and volunteers"[6] in this field.

Making the benefits more efficient and effective

ACSA is disappointed that the Australian Government capped the FBT meal and entertainment at $5,000 in the 2015 Budget. The timing of this event, less than a month before the closing date for submissions to the Tax Discussion Paper closed, means that the decision was not considered as part of broader taxation reform, based on community feedback.

We acknowledge that FBT exemptions represent a significant area of forgone revenue for government, and that in some cases the use of this concession had extended beyond its original purpose. However, in the aged care sector, the vast majority of people who access this benefit are the many direct care staff on lower incomes who utilise this benefit reasonably. According to the Aged Care Workforce Census and Survey, this change could directly affect 82,320 direct care staff working in residential care and 71,000 (56 per cent) in community aged care (76 per cent). [7]

ACSA agrees that the introduction of a cap is necessary to prevent excessive benefits but argues the $5,000 cap is too low and would have negative impacts on the recruitment and retention of NFP aged care staff. We believe a cap of $10,000 grossed up, would be more appropriate, and we urge the Australian Government to reconsider this decision, based on consultation with the NFP sector nationally. This cap should have an annual increase in line with CPI to ensure that the benefit is not eroded over time.

Arrangements that currently allow employees to participate in salary sacrificing initiatives across multiple employers should be reviewed as this is open to exploitation and unfair advantage. However, it is also important to ensure that any changes do not further disadvantage low paid care workers in the aged care sector who commonly work for multiple employers to supplement their income. Any move to cap benefits for employees working for more than one NFP organisation should take this into consideration.

SAVINGS

CGT, negative gearing and land tax

As many of our members are involved in providing housing for low income older Australians, ACSA seeks to ensure that tax arrangements affecting land and land transactions do not disproportionately inflate housing costs for consumers and housing providers.

Current tax arrangements – such as the capital gains tax, negative gearing, capital works deductions and depreciation provisions that have driven private investment in rental properties and have contributed to rising housing prices upwards.[8] As well as impacting on housing prices, the current tax arrangements are also inefficient. For this reason, the Henry Tax Review called for a broadly based

[6] Harper I et al (2015). *Competition Policy Review: Final Report*, The Australian Government Competition Policy Review, 366.
[7] King, D et al (2012). 'The Aged Care Workforce, 2012 – Final Report', Australian Government Department of Health and Ageing.
[8] Productivity Commission (2004). *First Home Ownership*, Commonwealth of Australia, Canberra, 91,92.

land tax that would apply equally to all land uses, but could have a threshold and different rates based on the value per square metre of land. Over time, this new land tax would replace existing state taxes.[9] ACSA believes that such arrangements should be further investigated.

[9] Henry, K et al (2009). *Australia's future tax system: Report to the Treasurer*, Part One, Overview, Commonwealth of Australia, Canberra, xxi, xxxii.