

AUSTRALIAN NOT-FOR-PROFIT NETWORK INC.

HEAD OF A LION AND TAIL OF A MOUSE?

The Henry Review of the Australian Taxation System has now been released, along with the Rudd Labor Government commentary on parts of it. We provide some brief initial comments on these releases as to how they affect the Not-for-Profit Sector, and in particular the Christian community.

The Henry Review contains a large number of recommendations, but the Government have chosen to accept a small number. Currently there is no Government comment at all on many of what seem to be sensible recommendations from Henry. However, there is the possibility of further comment with the Federal Budget coming shortly.

Key Matters: -

Charities Commission involved: Henry strongly advocates the introduction of a Charities Commission. This follows consistent recommendations from the Senate Enquiry into Charities, the Productivity Commission and support from the Council on Australian Government (COAG). The Productivity Commission were encouraging a structure wider than charities to embrace the whole Not-for-Profit Sector. It appears likely that whatever the results of the coming Federal Election, a Charities Commission or similar, is firmly on the agenda now. Its structure and timing remain to be discovered.

Commercial activities of charities: Henry supports the continuation of income tax concessions for commercial activities of charities. He considers the tax concessions to charities generally do not appear to violate the principle of competitive neutrality, where Not-for-Profit organisations operate in commercial markets. Nevertheless, we need to understand this and similar comments from other key sources in the light of the ATO's view on the Word Investments case. ATO considers that the Word Investments' High Court decision was set in very specific circumstances and does not provide a *carte blanche* in all circumstances. We agree.

FBT concessions and exemptions: Henry recommended that a number of changes be made. This includes reducing the concessions to the Not-for-Profit Sector. The Government has rejected this recommendation. Other FBT changes have been deferred for more detailed consideration. Currently there does not appear to be any thought to remove the exempt status for Ministers of Religion engaged by a religious institution. Nevertheless religious institutions should remain sensitive to the significant benefits of the existing exemption, to ensure these benefits are not prejudiced.

Mutuality principle: The principle of mutuality in respect to non-charitable Not-for-Profit entities regarding their commercial income has been confirmed. However, commercial activities of some clubs with very substantial training activities were recommended for higher tax levels. The Government has rejected this recommendation.

Gift Deductibility: Henry recommends that the gift deductibility threshold be raised from \$2 to \$25. He considered this would reduce administrative pressures on Deductible Gift Recipient entities. The Government has currently rejected this proposal, which seemed, in itself, to have some merit.

Overall the announced impact on the charitable sector arising from the Report appears to be modest. However, these are early days. Such a substantial examination of the Australian taxation system will not be neglected by this and future Governments, so we can expect some further consideration at a later date. It is noted that the last two reviews were spaced over a decade apart and some recommendations took at least that long before they were fully implemented.

Should you wish to have further clarification on any of these matters, or need advice on other taxation, administrative or structural matters, visit our website at www.anfpn.org.au